

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF RHODE ISLAND

\* \* \* \* \* C.A. NO. 12-517M  
\*  
LORI FRANCHINA \*  
\*  
VS. \* APRIL 6, 2016  
\* 9:30 A.M.  
\*  
CITY OF PROVIDENCE \*  
\*  
\* \* \* \* \* PROVIDENCE, RI

BEFORE THE HONORABLE JOHN J. McCONNELL, JR.,  
DISTRICT JUDGE

(Jury Trial - Volume I)

APPEARANCES:

FOR THE PLAINTIFF: KEVIN P. BRAGA, ESQ.  
Law Office of Kevin P. Braga  
2095 Elmwood Avenue, Suite B  
Warwick, RI 02888

JOHN T. MARTIN, ESQ.  
BENJAMIN H. DUGGAN, ESQ.  
KJC Law Firm, LLC  
10 Tremont Street, 6th Floor  
Boston, MA 02108

FOR THE DEFENDANT: KEVIN F. McHUGH, ESQ.  
KATHRYN M. SABATINI, ESQ.  
City Solicitor's Office  
444 Westminster Street, Suite 220  
Providence, RI 02903

Court Reporter: Karen M. Wischnowsky, RPR-RMR-CRR  
One Exchange Terrace  
Providence, RI 02903

I N D E XPLAINTIFF'S WITNESSPAGEOlayinka Oredugba

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1       6 APRIL 2016 -- 9:30 A.M.

2               (The jury is present for the following.)

3               THE COURT: Good morning, ladies and gentlemen.  
4       Actually, I should have stopped you because I need for  
5       you to rise because the first order of business today  
6       is for Ms. McGuire to swear you in as jurors.

7               (Jury sworn.)

8               THE COURT: So, ladies and gentlemen, before we  
9       begin with opening statements this morning, let me do  
10      what I'll do every morning, you'll get bored with this,  
11      but I'm going to do it, ask you first can you all  
12      assure me that you didn't do any outside research on  
13      this case? Great.

14              Can you all assure me that you didn't discuss  
15      this case with anyone? Can you all assure me that you  
16      didn't mention anything about your jury service on  
17      social media? And, lastly, can you all assure me that  
18      you didn't see any reference to the case on any news  
19      items, news stories or whatnot? Great.

20              Now, ladies and gentlemen, I'm going to just  
21      begin very briefly to tell you about Ms. Franchina's  
22      claims. We call this a precharge. And sometimes I do  
23      it, and sometimes I don't.

24              And when I talk to jurors afterwards, they said  
25      it would be helpful if they at least had a framework of

1        what the law was so that they could then listen to the  
2        evidence that came in with that information in that it  
3        would have helped them better understand the evidence  
4        as it came in and maybe to try and place it within  
5        that.

6                So let me -- and, again, this is very brief.  
7        And at the end of all of this, I'm going to give you  
8        very extensive jury instructions to follow; but this is  
9        just as a way to maybe assist you as you hear the  
10       arguments and then the evidence that comes in.

11               So, Ms. Franchina brings two claims against the  
12       City of Providence. First, she claims that the city,  
13       through its employees and agents, subjected her to  
14       on-the-job harassment and a hostile work environment  
15       based on her gender.

16               Second, she claims that the city retaliated  
17       against her for having made discrimination complaints.  
18       Those are the two claims that will be before you.

19               Now, Ms. Franchina has to prove her claims by a  
20       preponderance of the evidence. That means that she  
21       must prove that her claims are more likely than not to  
22       have occurred.

23               And, again, we're going to discuss the burden  
24       and the proof at the end of this case more extensively;  
25       but that, in general, is the Plaintiff's burden.

1           Now, to prove her first claim for harassment and  
2 hostile work environment based on gender, Ms. Franchina  
3 must establish the following: One, that she's a member  
4 of a protected class; two, that she was subjected to  
5 unwelcome sexual harassment; three, that the harassment  
6 was based upon her gender, the statute says based on  
7 her sex, based on her gender; fourth, that the  
8 harassment was sufficiently severe or pervasive so as  
9 to alter the conditions of her employment and create an  
10 abusive work environment; fifth, that the sexually  
11 objectionable conduct was both objectively and  
12 subjectively offensive and that a reasonable person  
13 would find it hostile or abusive and the victim, in  
14 fact, did perceive it to be so; and then lastly that  
15 some basis for employer liability has been established.

16           Now, to prove that the City of Providence is  
17 liable for her second claim, that is, the retaliation  
18 claim, Ms. Franchina must establish that she engaged in  
19 protected conduct, meaning that she made a  
20 discrimination complaint; two, that she suffered an  
21 adverse employment action; and three, that there's a  
22 causal nexus that exists between Ms. Franchina's  
23 protected activity and the adverse employment action.

24           Now, specifically Ms. Franchina must show that  
25 she would not have suffered the adverse employment

1 action but for the exercise of a protected right. If  
2 an adverse employment action was taken, the city will  
3 have the opportunity to prove that it was taken for a  
4 legitimate, nonretaliatory reason.

5 Now, Ms. Franchina would also need to show that  
6 she suffered damages in order to recover under either  
7 of those claims.

8 So, ladies and gentlemen, your duty now is to  
9 pay attention to the attorneys, listen intently and  
10 closely to the evidence and see it as it comes in so  
11 that you can later decide, after your deliberations,  
12 whether the City of Providence is liable to  
13 Ms. Franchina on either or both of these two claims.

14 Again, as I told you, I will give much more  
15 detailed, lengthy instructions to you on the law at the  
16 end. We're going to now turn to opening statements. I  
17 want to again tell you opening statements are not  
18 evidence. They are oftentimes very helpful for you to  
19 then understand where the Plaintiff and then the  
20 Defendant believe the case is going to go and how they  
21 want you to perceive the evidence that comes in and  
22 what results, obviously, they would ultimately like at  
23 the end of it, but it is not evidence.

24 The evidence will begin once the opening  
25 statements are completed and you begin to hear from the

1 witness stand and see the evidence that is introduced  
2 at trial. Okay?

3 With that, Mr. Martin, are you prepared to give  
4 your opening statement?

5 MR. MARTIN: Yes. Thank you.

6 THE COURT: Great. The floor is yours.

7 MR. MARTIN: Good morning again, everyone. So  
8 I'm sure that there were many places that you would  
9 have rather been yesterday or many things that you  
10 would have rather been doing; but I found it really  
11 enjoyable to hear from everybody, some more than  
12 others. If I didn't ask you enough questions, I  
13 apologize.

14 I do agree with Judge McConnell that from time  
15 to time we will have an opportunity for some enjoyment  
16 here in the courtroom over the next two weeks, at least  
17 I hope so, but now's the point where our job is to get  
18 to work and take on the serious business of proving our  
19 claims to you.

20 And the first thing I want to say to you is that  
21 we believe that this is a case that's really about  
22 rules. We believe that there's a rule, that there's a  
23 law that no employee should ever be subjected to a  
24 hostile work environment and that their employer must  
25 prevent it when they find out about it.



1           We believe that no employee who is engaged in a  
2           protected activity of making a complaint about  
3           discrimination or harassment should be retaliated  
4           against; and if they are retaliated against, then the  
5           employer must prevent it.

6           And Judge McConnell will instruct you on those  
7           rules. We colloquially refer to them as Title VII.  
8           You'll hear about rules that the department and the  
9           City of Providence themselves put in place to prevent  
10          those types of things, but here's the important thing  
11          about rules. They only work if people enforce them.

12          We're going to prove three things to you over  
13          the next two weeks: Number one, that Lori Franchina  
14          was harassed over several years.

15          Number two, we're going to prove to you why she  
16          was harassed. It was because of her gender plus her  
17          sexual orientation, number one; and number two, it was  
18          in retaliation for having complained about harassment  
19          and discrimination in the past and concurrent with  
20          right before she left work.

21          And before I describe to you how we're going to  
22          prove those two points, I'd like to tell you the story  
23          that brings us here to the courtroom today.

24          Now, some time ago, I'm not sure when and I'm  
25          not sure that it matters, the City of Providence

1 decided to employ an Equal Employment Opportunity  
2 person, I guess you could say, or investigator or  
3 officer. And this person is charged with enforcing  
4 their sexual harassment policy, their equal and  
5 affirmative -- excuse me, their Equal Employment  
6 Opportunity policies.

7 This person is charged with investigating  
8 complaints of those types of things; but what this  
9 person is not authorized to do, at least not with the  
10 fire department, they're not authorized to actually  
11 discipline anyone whom they found to have violated  
12 those laws.

13 What they are allowed to do if they find that  
14 somebody's violated the law is make a recommendation to  
15 the chief; and then it's the chief's choice to follow  
16 the recommendation, to give less punishment, to give  
17 more punishment, to give no punishment at all.

18 They have a complaint procedure in which people  
19 who believe that they may have been discriminated  
20 against or they may have been harassed are encouraged  
21 to make complaints directly to the EEO officer.

22 However, if they decide to go through the chain  
23 of command and make those complaints to a chief or to a  
24 captain or to a superior officer, there is no rule that  
25 the superior officer or the chief is required to

1 forward that on to the EEO officer.

2 And if a chief declines or fails or refuses to  
3 follow the recommendations of the EEO officer, there's  
4 no enforcement mechanism to make sure that they do so.  
5 So that's the general system that you're going to learn  
6 about.

7 Enter Lori Franchina. Lori grew up here in  
8 Rhode Island. She has a family with a sister and a  
9 brother and a mother and a father. From a very early  
10 age, she was very hard working. Her first paper route  
11 was at the age of 12.

12 Her father, Anthony, is a cobbler who worked  
13 here in Rhode Island for many years and now works in  
14 New York. She was immediately recognized as being very  
15 athletically gifted and very caring like her mom, who  
16 is a nurse.

17 She went to college in eastern Connecticut and  
18 was a sports superstar. She went to the NCAA Final  
19 Four twice in softball. She was a basketball player.  
20 And she was a fighter.

21 She tried out for the Olympic team; but before  
22 she tried out for the Olympic team, in one of her last  
23 seasons in college, she got hit with a bat. Her face  
24 was completely smashed. She had to go through  
25 reconstructive surgeries. Six months later, she's back

1 on the court with a facemask.

2 She got her degree in emergency medical  
3 services, and she immediately went to work as an EMT.  
4 When she saw the opportunity to work for the Providence  
5 Fire Department, she thought it was perfect. The pay  
6 was great. The hours were great. The uniform looked  
7 excellent. She was thrilled to have an opportunity.

8 She went through the academy. She passed  
9 everything. She did everything she needed to do, and  
10 she got herself a job riding around with the Emergency  
11 Medical Services division of the department.

12 And her work was excellent. There's no doubt  
13 about that. In fact, normally you have to wait at  
14 least five years before you're even eligible for a  
15 promotion to lieutenant. Lori was promoted to  
16 lieutenant before that five years was up, which of  
17 course came with a big pay raise.

18 Now, right around the time that she was promoted  
19 to lieutenant, another important event happened. It's  
20 probably worth noting that you'll hear in her testimony  
21 that things weren't necessarily perfect during those  
22 first five years. There was some issues with whether  
23 or not there were men's rooms or ladies' rooms. There  
24 were some incidents where maybe people weren't  
25 particularly thrilled to be working with women, but

1 nothing major, nothing that she complained about,  
2 nothing that's really important to this case.

3 But what happened towards around August or  
4 September of 2006 is she got scheduled to work with a  
5 guy named Andre Ferro.

6 So Ferro immediately jumped into the truck, and  
7 he turned around and he said, Lori Franchina, my  
8 lesbian lover. You and me like the same thing, you  
9 know, and that's -- and then he used a foul word for  
10 female anatomy. And she was shocked. And she said, I  
11 don't know what makes you think that's okay, but it's  
12 not okay with me.

13 And then he continued to ask her if she had a  
14 girlfriend, if her and her girlfriend would like to  
15 spend time with him intimately. He asked her if she  
16 was going to have babies. He asked her whether or not  
17 she used sexual toys, if she would prefer to have him  
18 serve as the sexual toy. And it was a rough shift for  
19 her because it pretty much continued throughout 12 to  
20 14 hours.

21 It culminated at the hospital where in front of  
22 another male on the department he pulled down his pants  
23 and tweaked his nipples and again said, Lori, my  
24 lesbian lover, in front of nurses, patients, her  
25 people.

1           So what happens with lieutenants is, your shifts  
2 are so long that you actually have an office with a  
3 bed. You sleep away from the regular bunk, and there's  
4 a computer in there. So they go back, he goes up to  
5 the bunk with the subordinates, and she goes down to  
6 her office, and she undresses, and she gets into bed.

7           Next thing she knows, she wakes up and he's in  
8 her room. And he's sitting with his feet up on the  
9 desk wearing a short pair of shorts, she wasn't sure if  
10 they were boxer shorts or not, and he's scratching  
11 himself and again asking her -- I shouldn't say  
12 "again." Asking her if she had any problems with what  
13 he had said earlier and if she wanted to talk about her  
14 problems with what he had said earlier. After three or  
15 four times of yelling at him to get out, he left.

16           So here's what's interesting, is that Lori never  
17 complained about this. Lori didn't want the  
18 retaliation. Lori didn't want to deal with any issues.  
19 Lori didn't want any problems. Lori wanted to work.

20           But the male firefighter who had seen what he  
21 did at the hospital went and told the chief because he  
22 knew it was bad. The chief's name is Curt Varone.

23           There's going to be a lot of names that come up  
24 during the course of this trial, too many for anybody  
25 to learn during this opening statement. I'll try to

1 throw out important names when they arise, and some  
2 other people I'll just refer to generally.

3 Curt Varone is very, very interesting because he  
4 was on the department for many years. He also became  
5 trained as a lawyer. Right now what he does is he's a  
6 chief in a different department, and he's an expert who  
7 goes around and teaches different departments about  
8 what they're supposed to do in circumstances like this.

9 And what he did was he immediately filled out  
10 what's called a Form 17, and that's a form you use in  
11 the department in order to make complaints to go up the  
12 higher ranks.

13 He filled out a Form 17 about everything that  
14 he'd learned. He interviewed Lori. He went directly  
15 to Andre Ferro. He said, Don't do it again. I'm  
16 bringing you up on charges. If I hear any more  
17 complaints like this, it's over for you.

18 He brought him through the disciplinary process,  
19 and Andre Ferro was fired. Later he ended up getting  
20 his job back through a grievance, but that's not a big  
21 part of this case.

22 Lori never had a problem with Andre Ferro again.  
23 Curt Varone handled everything appropriately, and Curt  
24 Varone immediately went into action to prevent  
25 retaliation. He told her captain of the house, Al

1       Horton, If there's any retaliation whatsoever, I want  
2       to know about it. I'm going to take care of it. He  
3       told Lori, If there's any retaliation whatsoever, I  
4       want to know. I'm going to take care of it.

5               Now, around the same time, Lori started to  
6       notice things that were happening at the station that  
7       hadn't happened before. She had a new nickname. Her  
8       last name is Franchina. She's started hearing people  
9       referring to her as Frangina.

10              She would walk down the hallways, and she would  
11       hear people say, What's that bitch doing here or why is  
12       that bitch with us? She would hear people saying --  
13       calling her the C word. So she complained.

14              And what she learned during the meetings was  
15       that it wasn't retaliation. It was because of her  
16       management style, that she was too pushy, that she was  
17       too assertive, that she was too strict, that the guys  
18       didn't like the way she ordered them to do their jobs.  
19       That's what she learned.

20              So she started doing extra meetings with  
21       Chief Varone in order to improve her management style  
22       and learn about leadership. He took this very serious,  
23       but the problems continued.

24              They made out a list on the whiteboard in the  
25       station of 21 things that they did not like about Lori



1 Franchina, 21 things ranging from appearance to --  
2 honestly, she doesn't even remember what was on there.  
3 She refused to give them the satisfaction of wiping it  
4 down or looking at it or acknowledging it in any way.

5 But what you'll learn in this trial is that  
6 before all this stuff started happening, a firefighter,  
7 a very experienced firefighter from that station, had  
8 said to her, Who the fuck do you think you are? Are  
9 you trying to cost him his fucking job?

10 What you'll learn that Lori didn't know at the  
11 time was that the captain of the house, Al Horton, knew  
12 that Andy McDougal had said, Are you trying to cost him  
13 his fucking job? And after he said to her, Are you  
14 trying to cost him his F-ing job, Andy usually did the  
15 cooking at the station, he would stop making her food  
16 for the meals. They cooked for everybody there.

17 So Captain Horton went and said, What are you  
18 doing with the food? This better not have anything to  
19 do with her complaint.

20 And Captain Horton will admit that all the guys  
21 were angry, that he was worried about retaliation  
22 because they were so angry, and he ordered Firefighter  
23 McDougal to continue to cook for her.

24 But what's interesting is, Captain Horton never  
25 told Chief Varone about what he heard Andy McDougal say

1 about costing Andre Ferro his F-ing job. What he told  
2 Chief Varone was that he thought that Firefighter  
3 McDougal stopped cooking for her because Lori didn't  
4 compliment his cooking or thank him for his cooking  
5 when he cooked.

6 So what happens is, on the rescue, they're  
7 usually unable to eat with everybody else because  
8 they're constantly going. So all the guys will eat up  
9 or all the firefighters and EMT people, there's usually  
10 only one woman on a shift, you'll learn about why, they  
11 would all eat together and they would put out plates  
12 with tin foil marked "rescue lieutenant," "rescue  
13 tech." That's the assistant. And a rescue tech is  
14 usually, I believe, and I might get some of this stuff  
15 wrong, a rescue tech is usually a firefighter who  
16 assists the rescue lieutenant.

17 So she starts getting sick on her shifts,  
18 terrible diarrhea. Never had a problem with that  
19 before. And this is at the same time she's seeing the  
20 things on the board and she's hearing the things about  
21 her name. And she's starting to notice that when she  
22 orders people what to do at a scene, because when it's  
23 a scene that's involving somebody who needs to be  
24 transported to a hospital, it's the rescue lieutenant  
25 who is in charge, even in charge of the firefighters.

1           So she thinks it can't possibly be related. So  
2 she starts switching the tags on the plates, and all of  
3 a sudden her rescue techs start getting sick. So she  
4 stops eating completely with them.

5           Things got so bad that Captain Al Horton went to  
6 Chief Varone and requested that Chief Varone not  
7 transfer Lori Franchina but that he transfer every  
8 single male out of that station and replace them with  
9 other men; in other words, to leave Lori alone in the  
10 station and bring in a whole new team and Captain  
11 Horton and his team go somewhere else. That's what  
12 he's testified to already.

13           So that's all happening in around 2007. Towards  
14 2008, she moves to a station and she hopes for a fresh  
15 start. So she gets out on the scenes, and wouldn't you  
16 know it, once again people aren't listening to the  
17 things she says. People aren't following her orders.

18           She's noticing -- there's an interesting thing  
19 about the bathrooms at the stations. You know, some of  
20 these buildings are old. This is a department with a  
21 lot of history. So a lot of them don't have enough  
22 facilities to have a men's room and a women's room.  
23 And that's fine. That's not really a part of this  
24 case.

25           They tried to make up for it. One way that they

1       made up for it was that they would put a sign on the  
2       door with a chain. On one side is the male, on the  
3       other side is the female. So what you do is, if a  
4       female comes up to the door and you see the man, you  
5       have to knock. If nobody answers, you can go in. Same  
6       thing if a man sees a female, you have to knock.

7               So anyways, if you're a male inside of a  
8       bathroom and you hear somebody knock, you know that  
9       it's a female.

10              Lori started noticing that when she would go  
11       into the bathroom, the seat, the floor, the handles,  
12       the facilities are covered with urine, which, of  
13       course, she has to clean up before she can use them.

14              She's continuing to hear people call her  
15       Frangina. She's continuing to see her subordinates  
16       refuse to acknowledge her when she comes into a room.  
17       This is a paramilitary organization. The treatment of  
18       subordinates to superiors is very important. You'll  
19       hear a lot about that.

20              And the insubordination is taking on new levels.  
21       For example, in one case a male firefighter came up to  
22       her, and lieutenants have bars on their collars,  
23       flicked her collar, pointed in her face, said, I will  
24       never fucking take orders from you, you're a doughnut,  
25       and he stared until she walked away.

1           It started to happen on the runs. She would  
2 show up. She would be waiting for a report. They  
3 wouldn't give her reports. The reports would be wrong.  
4 They wouldn't bring the equipment that she was asking  
5 them to bring. They wouldn't follow her orders. They  
6 would argue with her in front of patients, in front of  
7 civilians.

8           In one instance she brought a tech with her  
9 where there was an infant who was in the middle of a  
10 cardiac event that needed to be defibrillated. It's  
11 very important. There are different settings of  
12 electricity that can be pumped through a body. One is  
13 appropriate for adults. Much lower for infants.

14           Her co-worker started to put the paddles onto  
15 the baby's body without changing the settings. She  
16 said, You can't do that. He said, I got it. She said,  
17 Wait, don't do it. He said, I don't need your help.  
18 She said, Stop. He said, You're not in charge of me.  
19 She had to literally push him away from the baby's body  
20 in order to stop him from sending that electricity  
21 through the baby's body.

22           In another incident she showed up for a car  
23 accident. It was an off-duty police officer in the  
24 driver's seat. The fire lieutenant on the scene had  
25 called for a special piece of equipment to cut the roof

1 off of the car. He had never left his truck to inspect  
2 the car. Everybody was waiting for the equipment to  
3 come before they could start performing emergency  
4 medical services on the police officer.

5 Lori could see that he was bleeding, gasping for  
6 breath, in a very dire medical condition; and she  
7 realized in the dark of night that the car was a  
8 convertible. So her -- she ordered another firefighter  
9 to help her open up the convertible so that she could  
10 start doing CPR, which unfortunately failed.

11 And after she did that, the other lieutenant  
12 said, Don't ever fucking take over my scene. You will  
13 never tell me what to do. You will never tell my guys  
14 what to do.

15 In another instance, she went to a home in which  
16 there was a young man, adult, like 20s, who was  
17 exhibiting behaviors consistent with a drug overdose.  
18 She ordered her firefighters to go get a stair chair  
19 and a collar to bring him down on a piece of equipment  
20 so that it would be safe. They refused. They wouldn't  
21 listen to her. They were arguing with her assessment.

22 His roommate or girlfriend was yelling, Why  
23 won't you help her? You're going to hear so many times  
24 when citizens were yelling, Why won't you help her?

25 They decided to carry him without the chair.

1       They dropped him. His genitals fell out in front of  
2       his family. They brought him down the stairs. They  
3       got him to the hospital, and it turns out that he had  
4       had a brain bleed, which is something different than a  
5       drug overdose. I don't know if he used drugs or  
6       alcohol or not, but it's something different than that.

7               On another scene they showed up, there was  
8       someone who had a self-inflicted gunshot wound to the  
9       head. She realized that he had a pulse. It was  
10      viable. She'll tell you that it's not her duty to call  
11      who lives or dies. It's her duty to get them to the  
12      hospital and let them do what they can do.

13             She immediately ordered her men to start  
14      boarding him onto the chair so that they could get him  
15      to the hospital. And they'd say, Are you kidding me?  
16      He's dead. Look at him. She said, No, he has a pulse.  
17      We have to get him. They said, If this guy wanted to  
18      kill himself, why should we stop him?

19             Finally she got them to do it. He was covered  
20      in blood. He was slippery. They dropped him a couple  
21      times. There was nothing intentional about them  
22      dropping him. It was because of the blood.

23             They got him into the back of the unit. There  
24      was her and two firefighters, Sean McGarty and Paul  
25      Tang. They're covered in sweat, end of July,

1 Providence night, hot, humid, carrying a heavy body,  
2 covered in blood, brain matter. It's a scary,  
3 terrifying scene.

4 Sean McGarty positions himself at the back door  
5 of the unit as he's supposed to. Lieutenant Franchina  
6 is performing CPR to keep the pulse going. More an  
7 experienced firefighter, Paul Tang, is yelling at her,  
8 What's her problem? Look at us. Look at him. We  
9 can't save him. And she tells him, It's not your job  
10 to decide who we save. It's your job to follow my  
11 orders.

12 And he takes his rubber glove, and he holds it  
13 right up to the side of her face, and he snaps it,  
14 covered in blood. She had just said to him, You're  
15 covered in blood. Change your gloves. Help me perform  
16 CPR. He held it right in her face, and he snapped it.

17 She felt blood, brain matter, chips of bone  
18 cover her face, run into her eyes. She was closing her  
19 eyes. She could feel as she was inhaling through her  
20 nose some type of matter coming in and out with each  
21 breath.

22 She couldn't open her eyes because she was  
23 afraid to let more blood in. She couldn't wipe her  
24 hands because her own hands were covered with blood,  
25 plus she had to keep doing CPR.



1           So the next day she went out on stress. And for  
2           the first time she talked to a psychologist, and the  
3           psychologist treated her and talked to her. He  
4           listened to the types of scenes that she had seen as a  
5           firefighter, he listened to the types of scenes she had  
6           seen with her co-workers, and she learned that she had  
7           a disease called post-traumatic stress disorder. It's  
8           incurable but treatable, and it's severe.

9           And she stayed out on leave, got all the  
10          treatment that she could. She was doing yoga,  
11          exercise. She was staying in contact with the chiefs.  
12          She was going to therapy. She did everything she could  
13          to get back to work.

14          She gets back to work in December; and after two  
15          days back, she goes to the union hall to buy some fire  
16          department clothes and stuff on sale so she can give  
17          them to her family for gifts, and for the first time  
18          she runs -- since that run she runs into Sean McGarty.  
19          You remember he was the one who was at the back of the  
20          door.

21          And he says to her, Do you have a fucking  
22          problem with me? She said, How you doing, Sean? And  
23          he said, You're a nobody. You're a fucking zero.  
24          You're a fucking doughnut. Who are you to complain  
25          about what we did? You knew he was dead. Who are you

1 to complain to them about what we did and say we do  
2 nothing? He started screaming at her.

3 You'll see him. I believe he's being called as  
4 a witness by the defense. He's a large man, pointing  
5 at her, swearing, spitting. He's admitted to those  
6 things under oath at a restraining order hearing. He  
7 admits to swearing, to yelling, to screaming at a  
8 superior officer, a female superior officer who is  
9 probably about half his size, maybe two-thirds of his  
10 size.

11 She looks over to his superior officer, Elliot  
12 Murphy; and she says, Lieu, are you going to help me?  
13 Are you going to stop this? And Elliot Murphy goes,  
14 What am I, your fucking baby-sitter? And he walks  
15 away.

16 There's another guy there, Robert Jackson.  
17 She's like, Bo, that's his nickname, will you stop  
18 this? She's trying to get to the door. Firefighter  
19 McGarty is blocking the door, continuing to yell,  
20 continuing to point.

21 Finally he storms away. She walks by Elliot  
22 Murphy and (gesturing) on the shoulder and she goes,  
23 Thanks for all the help, Lieu. Just like that.

24 She immediately calls the police. They have a  
25 hearing in court. A lifetime restraining order is

1 granted against Firefighter McGarty. Four people  
2 showed up to testify for him: Elliot Murphy, a  
3 lieutenant; Bo Jackson, a lieutenant; Michael Evora,  
4 firefighter; Sean McGarty himself.

5 After the four of them denied that there was any  
6 assault or any threat or any dangerous situation, a  
7 Superior Court judge granted a lifetime restraining  
8 order.

9 Now, what's really interesting, there was no way  
10 for Lori to know this at this time, but you'll learn  
11 during the trial, is that Elliot Murphy, 16 hours  
12 later, because of this, Thanks a lot, Lieu, filed an  
13 injured-on-duty report saying that he'd suffered  
14 bruises and contusions on his shoulder.

15 All four of those firefighters, Evora -- maybe  
16 I'm wrong about Evora. Let's take him out.  
17 Mr. McGarty, Mr. Jackson, Mr. Murphy all filed reports  
18 saying that Lieutenant Franchina had assaulted Elliot  
19 Murphy, and they testified consistently with that at  
20 the restraining order hearing where the restraining  
21 order was granted.

22 So at this time now, Lori just fights through  
23 it. She doesn't leave for stress. She comes back to  
24 work, and it's more of the same. Month after month  
25 after month, run after run, they don't do what she

1       says.

2               Finally come October of 2010, she can't sleep,  
3 she can't eat. She's constantly fighting with her  
4 partner, Kristy Adams. Her family is walking on  
5 eggshells around her. Her sister is not letting her  
6 children around her. She's deciding -- she's  
7 consistently speaking with Chief Crawford and other  
8 chiefs about what's going on, will anybody help me,  
9 will anybody take care of this; and her rescue tech, a  
10 nice kid -- I shouldn't call him kid, a nice guy named  
11 Jared Scolaro said, You know, when I got the papers to  
12 work with you, I got a hundred phone calls. Lori  
13 learned that it was a hundred phone calls from other  
14 people in the department, and he let her know that they  
15 shouldn't ever expect any help from any firefighter  
16 when they go on any scene.

17              So let me take a step back. I'm sorry. It's  
18 hard to keep it all straight. After the lifetime  
19 restraining order was granted, the department gave an  
20 internal order that said Firefighter McGarty should  
21 never be allowed to work at a station where there's a  
22 rescue.

23              Not every station has a rescue. That's how they  
24 would keep them apart. He would only work at the  
25 stations without a rescue. She only works at the

1 stations with a rescue. Nobody's allowed to schedule  
2 him at a station with a rescue. Nobody's allowed to  
3 schedule her at a station without a rescue. Pretty  
4 easy, simple solution.

5 So back to the end of October. She talks to her  
6 doctor. She gets the paperwork. She goes -- has  
7 everything to go out on stress leave to seek treatment  
8 again, more intensive treatment. She continued  
9 treatment right throughout the entire time. And she  
10 gets to her station, and she walks through, and she  
11 hears a voice saying, Hey, Cap, I'm feeling a little  
12 stressed out. Do you think I could go on medical  
13 leave, too?

14 She hears somebody reply, Yeah, yeah, I know  
15 what you mean; and then she hears the same voice go,  
16 Can't stand that fucking bitch. What is she doing here  
17 with us?

18 And she comes around the door, and it's her  
19 chief who said, Yeah, yeah, I know what you mean. And  
20 you could all probably guess who was saying, I can't  
21 stand that fucking bitch. What's she doing here with  
22 us? It's Firefighter McGarty working at her home  
23 station with a rescue in direct violation of the fire  
24 department's order.

25 I want to be clear about that. We're not

1       alleging that he violated the restraining order. He  
2       was scheduled to be there by the city, by the fire  
3       department. He didn't go seeking Lori. He had no  
4       reason to know that Lori was going to be there filling  
5       out paperwork that day, but it was the department that  
6       put him there.

7               So she goes and she complains to the captain of  
8       the house, Al Horton; and Scott Mello, the chief who  
9       was there, comes down and apologizes to her.

10              And again she goes through intensive treatment  
11       until finally her doctor says, You know, you can't do  
12       this job anymore. You're not emotionally or  
13       psychologically capable of being an emergency medical  
14       services professional anymore. You freeze in front of  
15       pressure. You overreact to things that aren't  
16       necessarily as threatening as they appear. You aren't  
17       sleeping. We have to prescribe you seven different  
18       types of medications just to help you function  
19       throughout the day. It is a danger to you and it is a  
20       danger to the people that you want to treat for you to  
21       continue with your career.

22              So she went through the process, and she was  
23       deemed to be totally and permanently disabled because  
24       of post-traumatic stress disorder caused by two  
25       separate things, number one, the traumatic events that

1 she had seen and, number two, the harassment that she  
2 endured. That's what her doctors will tell you,  
3 Dr. Michelle Olson and Penelope Yanni.

4 So all those events there is how we're going to  
5 prove harassment. How are we going to prove that it  
6 was because of sex, because of gender, because of  
7 orientation, because of retaliation?

8 You will learn during the course of this trial  
9 things that she could have never known then because  
10 behind the scenes when she complained in 2009, one of  
11 the chiefs, Chief Crawford, went to the EEO officer,  
12 remember I talked about them earlier, and said Lori has  
13 a complaint of a hostile work environment, and she  
14 started an investigation.

15 During her investigation, she learned a couple  
16 of things. The first one, that there was a problem  
17 overall with more than one female lieutenant. I'm not  
18 exactly sure how, she doesn't remember, but there were  
19 at least two female lieutenants who were complaining  
20 that the men were being insubordinate to them. No  
21 evidence that it was happening to any of the male  
22 lieutenants.

23 Number two, she learned from Chief Crawford that  
24 the men treat certain women better than the other  
25 women. To use his exact words, She's a lesbian, and

1       they know that they don't have a chance with her. If  
2       they have a chance with you, they'll cut you a little  
3       more slack; but if they don't have a chance, no slack.  
4       That's what the chief said.

5               So then when Ms. Oredugba, that's the EEO  
6       officer, when she finds out about what had happened in  
7       December, she went and she found out that they were  
8       going to file charges against McGarty. She made a  
9       recommendation you must also file charges against  
10      Murphy and Jackson, the two guys who refused to help  
11      her.

12             Now, remember, she only has the authority to  
13      make recommendations for violations of the EEO policy.  
14      She doesn't get to tell firefighters or emergency techs  
15      what to do. She doesn't discipline them for rule  
16      violations or policy violations, only for EEO  
17      violations. She advised punish both of them. She  
18      never advised punish McGarty because they had already  
19      decided to do it. That's going to be her testimony.

20             On December 22nd, they tell her, Yeah, no  
21      problem, we're doing it. Over the next month or so,  
22      based on her conversations with them, she believed that  
23      every -- each one of those men had been brought up on  
24      charges, had a hearing and had been disciplined.

25             You can imagine her frustration and dismay in



1 May of 2010 when she found out that none of that was  
2 true and when she found out that the reason that they  
3 didn't do it was because they thought that the case was  
4 proceeding to litigation.

5 So in May she told them, That's not a good  
6 enough reason, you have to discipline these guys. To  
7 this day, she doesn't know if they were ever  
8 disciplined. To this day, I don't know if they were  
9 ever disciplined.

10 I do know that when people are disciplined,  
11 there's a memo that goes out to the entire department.  
12 Lori continued to get those memos through 2013 before  
13 she was deemed to be disabled. Lori never saw a memo  
14 about anybody getting disciplined for what happened to  
15 her.

16 During 2010, another investigation was started  
17 by Ms. Oredugba. You'll see that report as well. And  
18 she concluded -- I shouldn't say she concluded. In  
19 November of 2010, she wrote an e-mail memorandum to  
20 herself in which -- this is Exhibit 17, Plaintiff's  
21 premarked Exhibit 17, in which she was talking to  
22 Chief Crawford, who was the chief of Emergency Medical  
23 Services for the City of Providence Fire Department at  
24 the time, that he reported to her that Chief Crawford  
25 believed 90 percent of what Lori was saying was true.

1           He believed that 90 percent of the complaints  
2           that they were investigating were true; and he told the  
3           EEO officer that he believed there to be, and I quote,  
4           "ample merit to her claim of multiple and repeated  
5           violations of PFD," Providence Fire Department,  
6           "multiple and repeated violation of PFD rules and  
7           regulations. It even seems plausible that the  
8           pervasiveness of this behavior creates a hostile work  
9           environment for her. It also seems clear that the  
10          Providence Fire Department has failed to stop the  
11          behavior."

12           Unfortunately, by this time she was already  
13          disabled and she couldn't come back, even though she  
14          wanted to. And, in fact, she still wants to be an EMT,  
15          but she can't.

16           So that's how we're going to prove to you that  
17          it was based on sex and gender and orientation, number  
18          one, because the women who were available for dating or  
19          who the guys had a chance with were treated better than  
20          she was. She was unavailable. She's gay. And that's  
21          consistent with what the EEO officer learned about  
22          other female lieutenants.

23           You know that it's retaliation because she  
24          engaged in a couple of different protected activities,  
25          number one way back when Ferro got fired, but number

1 two when Ms. Oredugba was investigating her complaints.  
2 That was also protected activity, her complaints to  
3 Ms. Oredugba in July of 2009, in December of 2009, in  
4 January of 2010, all of those things.

5 You're going to learn that Chief Crawford or it  
6 might have been Chief Farrell told Ms. Oredugba during  
7 her investigation, and I want to make sure that I get  
8 the words right, this is Exhibit 17 again. Yes, this  
9 is Chief Crawford. The problem is -- what he wrote is,  
10 "We must put a stop to it. You punish one officer,  
11 which makes that officer's subordinates angry and they  
12 want to retaliate against Franchina," et cetera,  
13 et cetera and so forth.

14 I'm not sure how he knew that because no officer  
15 was ever punished, but it's clear that his concern was  
16 that she would be retaliated against. That's how we  
17 prove those things.

18 The last part is damages, and that's something  
19 more for the end of the trial, I think; but I'll tell  
20 you what we're looking for. Number one is, we want her  
21 wages from the day that she was forced to retire until  
22 the age of 62, which is the normal forced age of  
23 retirement.

24 She made about 120 to 130 thousand dollars a  
25 year as a lieutenant, and she would have been able to

1 work for about 19 more years had she not been forced to  
2 retire.

3 We're going to ask you to compensate her for her  
4 emotional distress because we're not talking about a  
5 little bit of aggravation or the types of things that  
6 you would normally expect at work. We're talking about  
7 an incurable, debilitating psychological illness that  
8 she lives with and everybody who loves her will live  
9 with for the rest of her life.

10 And, number three, we're going to ask you for  
11 punitive damages, the type of damages that are to  
12 punish and deter behavior.

13 Judge McConnell will explain the very specific  
14 circumstances in which those are allowed, but suffice  
15 it to say there are certain circumstances in which you  
16 can find that their behavior was knowing and willful or  
17 reckless of her rights. And if you find that to be so,  
18 you can punish them; and you can do that to not only  
19 punish them but to deter future conduct, to protect the  
20 community.

21 Members of the jury, at the end of this trial,  
22 I'm going to ask you for the type of verdict that does  
23 all of those things because the rules that the city had  
24 in place, the rules that the Providence Fire Department  
25 had in place were perfectly capable of protecting Lori

1 Franchina but only if they're enforced.

2 When we talked yesterday about the red light,  
3 when you go through the red light and you hit someone,  
4 who should be accountable. They didn't not know about  
5 the law. They didn't not have the capabilities to  
6 protect her. They chose not to protect her.

7 At the end of this trial, the only thing I'm  
8 going to ask you to do is enforce the rules that they  
9 refused to enforce because if those rules don't protect  
10 Lori, they don't protect anybody.

11 Nothing further.

12 THE COURT: Thank you, Mr. Martin.

13 Mr. McHugh, about how long? I'm just worried  
14 about whether we should take a break now. Are you  
15 going to be much more than a half hour?

16 MR. McHUGH: I might be, your Honor. Not too  
17 much more.

18 MR. MARTIN: Sorry, was that way too long?

19 THE COURT: No, no, no, fine.

20 Ladies and gentlemen, why -- normally we take a  
21 break at 11, and I doubt the snacks -- Mike, are the  
22 snacks here yet? Oh, they are.

23 So we're going to do it early just because what  
24 I don't want is around 11:00 people get antsy and need  
25 to use the facilities or whatnot in the middle of an

1 opening statement.

2 So let's take our morning break now. And please  
3 remember don't discuss anything that's taken place,  
4 don't discuss this case in any fashion while you're  
5 together, and we'll see you back in about 15 minutes.

6 THE CLERK: And could you just leave your  
7 notebooks in your seats. Thank you.

8 THE COURT: Let me assure you, ladies and  
9 gentlemen of the jury, and I forgot to tell you this at  
10 the beginning, the notebooks are yours; and as I told  
11 you I think yesterday, they're to use as you want or  
12 not use as you want. It's purely your personal  
13 preference.

14 But know this, they're only yours. No one will  
15 ever look at them. They are left on your seat every  
16 night. Vickie puts them away safely; and at the end of  
17 the trial, they're destroyed without being looked at.

18 So you can use them or not use them as you wish;  
19 but always leave them on your chairs when you come and  
20 go from the courtroom until deliberation, and you will  
21 have them with you during deliberation. Now we can all  
22 rise for you.

23 (Recess.)

24 THE COURT: Mr. McHugh.

25 MR. McHUGH: Thank you, your Honor.

1           Good morning, ladies and gentlemen. I will  
2           prove to you that Lori Franchina's problems on the  
3           Providence Fire Department were not because of her sex,  
4           not because of her gender, not because of her sexual  
5           orientation, but because she could not get along with  
6           her fellow firefighters, both female and male  
7           firefighters.

8           And I will prove to you that Lori Franchina had  
9           a reputation within the Providence Fire Department  
10          among both the male and the female firefighters of not  
11          being able to get along with her fellow firefighters  
12          and being very difficult to work with.

13          I'll also prove to you that Lori Franchina also  
14          had problems dealing with family members of victims or  
15          patients that she was called to the scene to take care  
16          of, and that also caused friction between her and her  
17          fellow firefighters.

18          You're also going to see that Lori Franchina  
19          never took advantage of the process for filing  
20          complaints of discrimination and harassment through the  
21          EEO officer in city hall even though she knew from the  
22          time she was in the fire training academy, which was  
23          2002, how to do it because every recruit, and we'll put  
24          on some people who were in her recruit class at the  
25          training academy, every recruit is given at least one

1 session while they're in the Providence fire training  
2 academy on how to file a complaint of discrimination or  
3 harassment with the EEO officer in city hall. She  
4 didn't do it.

5 And we will also show that she knew from her  
6 tenure on the department how to do it because we also  
7 give training to the incumbent firefighters from time  
8 to time on how to file a complaint of discrimination or  
9 harassment within the fire department.

10 And even though she first complained about  
11 harassment in the training academy in 2002, it wasn't  
12 until August 11th of 2009, seven years later, that the  
13 EEO officer for the City of Providence first learned  
14 that Lori Franchina had complaints about the way she  
15 was being treated.

16 And the EEO officer, Ms. Oredugba, didn't find  
17 out from Lori Franchina that Lori Franchina had  
18 complaints. She found out from Chief Crawford. And  
19 Chief Crawford told the EEO officer that Lori Franchina  
20 had come to him to complain to him about this incident  
21 with Firefighter Tang in the rescue and the blood.

22 And, look, we all know there are two sides to  
23 every story. You're going to hear our side of the  
24 story when it's time for us to put our witnesses on.  
25 And I will tell you right now that Firefighter Tang is



1 going to get on this witness stand and he's going to  
2 tell you a completely different story about what  
3 happened in the back of that rescue with those gloves  
4 and that blood than Lori Franchina is going to tell  
5 you.

6 Firefighter Tang is going to tell you at the end  
7 of the run, yes, there was blood splattered, which is  
8 not unusual because of the amount of blood. He's going  
9 to tell you he never snapped his gloves. He took his  
10 gloves off the normal way. Those gloves are tight on  
11 your hands; and when you take them off and there's some  
12 fluids on them, they can splatter.

13 He's going to tell you it's not unusual to have  
14 a lot of blood in the rescue; and that's why after  
15 there is a rescue run and there's blood in the rescue,  
16 the entire truck is decontaminated before they take  
17 that truck out again.

18 He's going to tell you not only that -- and he's  
19 going to tell you that he's the one who was giving CPR  
20 to the individual in the back, not Lori Franchina.

21 And he's going to tell you at the end of the  
22 run, after the person had died and they were at the  
23 emergency room and Lori Franchina walked out of the  
24 emergency room and Firefighter Tang was at the truck  
25 waiting, he's going to tell you that she went out of

1 her way to go over to Firefighter Tang and say to him,  
2 Congratulations, you did a great job.

3 And he's going to tell you that he was shocked  
4 days later when he was called on the carpet by a  
5 superior officer and asked, What happened on that  
6 rescue run? Lori Franchina is accusing you of snapping  
7 your gloves in her face and splattering her with blood.

8 And he's going to tell you he couldn't believe  
9 it, this came out of nowhere after she had already  
10 congratulated him on doing a good job.

11 Make no mistake, Lori Franchina did know how to  
12 complain even though she had not complained to the EEO  
13 officer. And we know that because, and we talked about  
14 this somewhat yesterday, injured-on-duty pay, workers'  
15 comp., when Lori Franchina decided that she thought she  
16 should get injured-on-duty pay, 100 percent of her pay  
17 tax free, and the department wouldn't give it to her,  
18 she went to the union and she filed a grievance.

19 She knew how to do that. Even though she didn't  
20 file a grievance on any of these other harassment  
21 actions that she complains of, she knew how to do it.  
22 She just didn't do it.

23 Now, as I said, we all know there's two sides to  
24 every story; and we'll get our turn, and you'll hear  
25 our witnesses. But I wanted to go over a few examples

1 of the problems that Lori Franchina had with her fellow  
2 firefighters as well as the families of victims and  
3 patients, and you're going to hear some testimony.

4 There's going to be -- if we added up the  
5 experience of some of the firefighters who are going to  
6 testify here at this trial, we'd have over 100 years of  
7 firefighting experience among all these witnesses.

8 Let's start with the North Main Street Station,  
9 which is right behind this courthouse. You've driven  
10 right by it, I'm sure, many times across from Roger  
11 Williams Green. That's where she went for Engine 5.

12 Early on in her career, as Mr. Martin said, she  
13 was making more money than a first-grade firefighter  
14 because she had already had the EMT certification; and  
15 there was a number of vacancies in the EMT service, and  
16 so she was assigned to be an acting lieutenant.

17 And you really have to understand the culture of  
18 the fire department to understand this case because a  
19 fire department is very different from the jobs all of  
20 us have.

21 The firefighters spend a lot of time together.  
22 They spend days together, nights together given their  
23 schedule. They eat together. They sleep together.  
24 They watch TV together. They go to the grocery store  
25 together to get groceries for the department -- for

1       their station, rather. So they spend a lot of time  
2       together.

3               Let me give you one example of an incident  
4       between Lori Franchina and one of the male firefighters  
5       at the North Main Street Station.

6               You're allowed to sleep during your shift if you  
7       don't have a run whether you're a firefighter or a  
8       rescue person. At the end of your shift, if you're  
9       still asleep and there's no run, someone will wake you  
10      up and say, Your relief is here, your relief being the  
11      person who is taking your place.

12              There was a firefighter who was supposed to wake  
13      up Lori Franchina on one of these days. She slept past  
14      her relief. He fell asleep himself. He was asleep in  
15      a chair, and she came out and in front of other  
16      firefighters kicked the chair hard because she was  
17      angry that she was still at the station, not supposed  
18      to be working, her relief was there and this  
19      firefighter didn't tell her.

20              After that incident, they changed the practice  
21      at the North Main Street Station over here; and the  
22      practice became to use the loud speaker to announce to  
23      firefighters, Lieutenant Franchina, your relief is  
24      here, or whoever the firefighter may be. So that's  
25      just one instance. That, of course, caused friction

1 among the firefighters.

2 Now, let's talk about this problem with the  
3 meals. There's usually one firefighter who does the  
4 cooking. They call him the chef. And usually it's  
5 someone who likes to cook and takes that on himself.  
6 And they will eat together, some with the food prepared  
7 by the chef, some people will bring in their own food.

8 The rescue is a little bit different because the  
9 rescue is much busier than the fire truck; and there's  
10 so many runs and they're out of the station so much,  
11 it's not atypical to have a rescue run finish the run,  
12 not come back to the station, go to the next run, maybe  
13 go to the hospital and then go to the next run.

14 So it's estimated by some of the firefighters  
15 that people who are on the rescue may only be in the  
16 station 10 to 15 percent of the time.

17 A firefighter by the name of Andy McDougal was  
18 the one who was cooking at North Main Street, and he  
19 enjoyed cooking so he would prepare the meals. For the  
20 rescue personnel, if you weren't bringing in your own  
21 food and he was going to prepare yours, yeah, he would  
22 put it aside, mark it.

23 He got word that Lori Franchina was complaining.  
24 She didn't like the way the food was prepared.  
25 Sometimes when she got there, it was cold already. He

1        didn't -- she didn't like the way the food was being  
2        stored.

3                At some point in time Firefighter McDougal had  
4        had it and he said, I'm not going to cook for her  
5        anymore. He didn't say he was going to exclude her  
6        from meals. He said, I'm just not going to cook for  
7        her anymore, she doesn't appreciate it, she's always  
8        complaining.

9                Lori didn't complain to Captain Horton, who is  
10       going to testify here, who later became a chief and  
11       retired as a chief. Captain Horton heard of it from  
12       other firefighters.

13               So Captain Horton takes it upon himself to go  
14       into the station that day, walk up to Firefighter  
15       McDougal and says, Listen, you're going to cook for  
16       everybody who wants to eat here. You're not going to  
17       choose who you cook for and who you don't.

18               And he explained to Captain Horton, She's always  
19       complaining, she doesn't appreciate it. He said,  
20       You're going to cook for Lori Franchina just like  
21       you're going to cook for everyone else. And that was  
22       the end of it.

23               He then got the men together and sat them down  
24       and had a talk with them about everybody has to work  
25       together. It's important. We're a team. We all have

1 to be able to get along together.

2 And now and again there were complaints about  
3 Lori or Lori would complain about some other  
4 firefighters, and Captain Horton would work on this and  
5 pretty much straighten it out.

6 And so for a while Captain Horton thought that  
7 things were going pretty well in the North Main Street  
8 Station on that group with Lori Franchina and the other  
9 firefighters.

10 He went to a fire -- another fire station over  
11 on Rochambeau Avenue for a call sometime after this,  
12 and one of the other firefighters said to him, What's  
13 going on with Lori Franchina? I heard she's going down  
14 to headquarters to see Curt Varone, Chief Varone, to  
15 complain about having problems in the North Main Street  
16 Station.

17 Well, this was news to Captain Horton because he  
18 thought he pretty much had everything on an even keel  
19 and there hadn't been any problems. So at that point,  
20 like Firefighter McDougal had had it, he had had it.

21 He drove down to see Deputy Assistant Chief Curt  
22 Varone, who was his supervisor; and he told  
23 Chief Varone, Look, I don't know what else to do. I've  
24 gotten the men together. I told McDougal he has to  
25 cook for her. There haven't been any more complaints.

1 Things have been going well. We've been getting along.  
2 I don't really know what the problem is. At this point  
3 I'm going to ask you to transfer my group, not every  
4 person in the station, but the fire department has  
5 different groups working out of different stations.

6 So he said, I am asking you to transfer -- leave  
7 Lori there and transfer my group out of the station to  
8 another station. And he didn't ask that they be  
9 replaced with men. He simply asked that they be or  
10 volunteered that they would be transferred.

11 So he goes back to the North Main Street  
12 Station. The next thing he knows, he sees Lori  
13 Franchina back at the station at her locker cleaning  
14 out her locker; and he says to her, Lori, what's going  
15 on?

16 Let me back up a minute. When he got to see --  
17 in to see Chief Varone, Chief Varone said, Yeah, she  
18 called me and she's coming down here, but let me handle  
19 this before we do anything.

20 So Lori said to him, I'm going to make it easy  
21 for you guys. I'm transferring out of here.

22 Now, it turns out that Chief Varone had been  
23 coaching, he called it, or counselling Lori Franchina  
24 for a while almost on a weekly basis about how to get  
25 along with fellow firefighters; and he was



1 concentrating on two areas that she was having problems  
2 with.

3 One was the way she talked to people in a very  
4 condescending, arrogant way and the other one saying --  
5 the content of what she was saying to people that would  
6 hurt people's feelings. So those are the two things  
7 that Curt Varone saw in her that were causing her  
8 problems on the job. And this was going on on a weekly  
9 basis. Captain Horton didn't know about that.

10 So Lori agrees that she will transfer, and she  
11 goes to the Branch Avenue Station where later on  
12 there's this incident with Firefighter McGarty. So  
13 that's the end of her tenure at the North Main Street  
14 Station on Rescue 5.

15 Now, in the meantime, while she's at Branch  
16 Avenue or even before she gets to Branch Avenue, there  
17 are several incidents or I'll give you a couple of the  
18 incidents where she had trouble with, while she was at  
19 the North Main Street Station, dealing with the family  
20 members of patients. One of these incidents happened  
21 on Jewett Street, which is over behind the State House.

22 Now, you have to understand another thing about  
23 the fire department. The rescues are so busy and out  
24 of the station, there's also a fire truck -- at least  
25 one fire truck in each station they call an engine

1 company. So every time there's a call for a rescue,  
2 they will send an engine company, which they call first  
3 responder.

4 Now, all our firefighters are trained as EMTs  
5 also. Some have additional certifications on the  
6 rescue called EMT-C, which is a cardiac, different  
7 certification. So very often it's the engine company  
8 that arrives first at the scene rather than the rescue.

9 And basically what happens is the officers on  
10 the rescue -- on the engine company will assess the  
11 patient, take the vitals, see what's wrong with the  
12 patient and then wait for the rescue to get there.

13 So on this particular day when they got to  
14 Jewett Street, there was a young mother and her  
15 daughter; and she had given the daughter Benadryl, and  
16 the daughter had an allergic reaction to the Benadryl.  
17 The mother was very upset. The daughter was very  
18 upset. Captain Horton and his crew calmed the mother  
19 down, calmed the daughter down.

20 When the rescue arrived with Lori Franchina,  
21 Lori Franchina marched into the house in a very  
22 militant way and started interrogating the mother and  
23 said to the mother, What did you give her? And the  
24 mother said, I gave her Benadryl. How much of a  
25 dosage? I gave her a swig. And then she said, Well,

1       you can't be doing that.

2               And right away a scene that had become calm and  
3       less stressful became much more stressful for the  
4       mother and for her daughter because of the way  
5       Ms. Franchina was speaking to them; and that, of  
6       course, caused tension among the firefighters, also.

7               Another example took place across the street at  
8       Providence Place Mall. At Providence Place Mall, there  
9       was a call for a young boy, a young Hispanic woman who  
10      didn't speak much English, for a -- her son who cut off  
11      the tip of his finger, got caught in one of the doors  
12      at the mall.

13              So when you go into the mall from the street and  
14      you go up on the escalator, right at the first level  
15      there before you get into the level of the stores or by  
16      Old Navy is the security office. So they had brought  
17      the mother and her son into the security office.

18              Captain Horton again and his crew arrive first.  
19      They got in there. The mother, of course -- there was  
20      blood. The boy was crying. The mother was upset. The  
21      boy was upset. They assessed the boy. They took his  
22      vitals. And they calmed the mother down, they calmed  
23      the son down while they waited for the rescue.

24              Again Lori Franchina shows up and marches in in  
25      a very militant way and says to the mother, Has he had

1 a tetanus shot? And the mother said, No. And she  
2 said, Well, he could die from this.

3 So right away, again, a very calming situation  
4 that had been taken care of by Captain Horton and his  
5 crew becomes a very stressful, tension-filled situation  
6 because of the way Lori Franchina acted towards the  
7 mother and the son. And the other firefighters, of  
8 course, are standing there witnessing this.

9 Those are some of the -- a couple of examples of  
10 the problems she had dealing with patients and their  
11 family members.

12 Now, I'm going to talk a little bit about her  
13 lack of complaining to the EEO officer for whatever  
14 reason because she had complained before early on to  
15 immediate supervisors, which I'll talk about in a  
16 minute; but if I could have the ELM0 turned on, please,  
17 your Honor, if I may.

18 THE COURT: Sure. Ladies and gentlemen in the  
19 back row, you'll see that there are monitors. If you  
20 just twist it and push it forward -- it won't break.  
21 Trust me. Well, don't trust me. Just push it all the  
22 way forward. It will stop. And then for the folks in  
23 the front row, you should each have one that operates.  
24 Great. And the machine there is what we refer to as  
25 ELM0. It allows you to video-see documents.

1 Mr. McHugh.

2 MR. McHUGH: Thank you, your Honor.

3 I'm going to show you, this has been marked as  
4 Defendant's A. This is one of the agreed-to exhibits.

5 Defendant's A, you're going to see this again  
6 later, but I wanted to show you the city's sexual  
7 harassment policy. You don't have to read the whole  
8 thing now because we'll talk about it later, but I  
9 wanted you to see that this is what the recruits get  
10 and what the city employees get and incumbent  
11 firefighters get so there's no doubt on how you go  
12 about filing a complaint if you feel you've been  
13 harassed.

14 And there's three pages to this. I wanted to  
15 draw your attention -- I'll show you page 2, also,  
16 but -- it talks about also down at the bottom  
17 prohibiting retaliation, but I wanted to show you in  
18 particular for the purposes of opening statement the  
19 third page where they get the complaint procedure so  
20 that they know specifically what it is.

21 So on the third page, if you look right at the  
22 beginning at the top, you'll see "complaint procedure."  
23 And you can see there that they have actually the name  
24 of the EEO officer, Olayinka Oredugba, who is going to  
25 be the first witness, where she's located, her number

1 and her actual extension.

2 And then they go on to tell employees complaints  
3 of sexual harassment are accepted in writing. They  
4 prefer that these be put in writing so they can conduct  
5 their investigation and have something in writing in  
6 front of them and that -- you can go on the city's  
7 website to get a complaint form or you can call or  
8 e-mail Ms. Oredugba and ask for her to send you a form.

9 So you have the phone number with the extension,  
10 you have the website, and you have the e-mail of  
11 Olayinka Oredugba who can help you with this complaint;  
12 but in addition to that, if you look at that last  
13 paragraph in the complaint procedure, you can also skip  
14 that if you want per the policy or on your own and you  
15 can file directly with the Rhode Island Commission for  
16 Human Rights.

17 So I just wanted you to be aware that this is  
18 what firefighters and police and city employees see in  
19 terms of how do I go about filing a complaint.

20 So on August 11th, 2009, this is the first time  
21 that Ms. Oredugba gets this complaint from Chief  
22 Crawford from Lori Franchina. She still hasn't heard  
23 from Lori Franchina about Firefighter Tang doing  
24 something that he's going to tell you he just didn't  
25 do. It just didn't happen.

1           But in the course of it, Chief Crawford puts,  
2           and I think this e-mail was referenced, that in the  
3           course of complaining about this incident in the rescue  
4           with Firefighter Tang, Lori Franchina also started to  
5           tell him about other instances of harassment that she  
6           had experienced.

7           And you'll see that Chief Crawford told her,  
8           Here is Olayinka's number. You should call her. You  
9           should go in and see her. That was August 9th.

10          By August 20th, Chief Crawford checks, and  
11          Olayinka Oredugba still has not heard from Lori  
12          Franchina nine days later. And, remember, this  
13          incident with Firefighter Tang goes back to July 29th.  
14          So it's almost a month later.

15          So Ms. Oredugba calls Lori Franchina herself,  
16          and they set up an appointment for September 14th,  
17          2009. Ms. Franchina never shows up.

18          So Ms. Oredugba does her own investigation. She  
19          goes and she meets with Chief Farrell at the time, the  
20          chief of the department, tells him apparently there's  
21          been a complaint of Lori Franchina that was made to  
22          Chief Crawford but not made by Lori Franchina.

23          She sits down with Chief Farrell, and then Chief  
24          Farrell says that he is going to order all his  
25          assistant chiefs and he is going to tell his assistant

1 chiefs, I want everybody working together, everybody is  
2 to be treated the same, there shouldn't be any problem  
3 working with anybody else, and I want you chiefs to  
4 tell your firefighters and officers the same thing.

5 Now, she doesn't hear from Lori Franchina again  
6 until December 13th. This is after the incident at the  
7 Firefighters' Hall. And there's a voicemail left from  
8 Lori Franchina on Olayinka's phone saying that she had  
9 to go and get a restraining order against a  
10 firefighter, Firefighter McGarty, because she had an  
11 altercation with him at the union Christmas bazaar over  
12 on 90 Printery Street right behind Benny's, we all know  
13 where Benny's is off North Main Street, and she would  
14 like to come in and meet with Ms. Oredugba.

15 So Olayinka sets up a meeting for her the next  
16 day, December 14th, and Lori Franchina never shows up  
17 for that meeting either.

18 Now, before I even talk more about this incident  
19 at the union hall, there are a couple of other  
20 complaints that Lori Franchina had made early on, right  
21 from the beginning she started complaining in the  
22 training academy, that were handled by her supervisor  
23 or the training staff right away.

24 The first one was she was cleaning the bathroom  
25 at the training academy; and while she was cleaning the



1 bathroom, one of the male recruits came in and used the  
2 urinal. She complained to the academy staff about  
3 that. The academy staff called together the whole  
4 class, I think there were 35 for that class, talked to  
5 him about it, told him he didn't want this going on,  
6 this couldn't go on, and they set a time every morning,  
7 8 a.m. to 9 a.m., for the bathroom to be cleaned and no  
8 one was to use the bathroom between 8 and 9 a.m. And  
9 that took care of it. That didn't go any further.  
10 That never happened again while she was at the training  
11 academy.

12 There was one other complaint she had at the  
13 training academy, and that was about male trainees  
14 talking about women being the weaker sex. Again, they  
15 called the group together of 35, and they tell them,  
16 We're not going to have this kind of stuff going on  
17 here, we don't want that kind of talk, we're not going  
18 to tolerate it, it's going to stop; and that was the  
19 end of it. So when she complained initially in the  
20 training academy both times, it was taken care of right  
21 away.

22 Now, what about this incident with Andre Ferro?  
23 Again, the complaint didn't come from her, but it came  
24 from another firefighter to Curt Varone. When the city  
25 found out that Ferro had pulled this, what did they do?

1 They fired Ferro, fired him. Didn't suspend him,  
2 didn't reprimand him. They fired him.

3 He used the same process under the collective  
4 bargaining contract, because, remember, the  
5 firefighters are unionized, that Lori Franchina used  
6 under the collective bargaining contract to get her  
7 100 percent tax-free pay, the grievance procedure and  
8 then, when the grievance was denied, asked for  
9 arbitration, which was his right under the contract.

10 It was an arbitrator through an award after a  
11 hearing that ordered Ferro to come back to work even  
12 though the city had fired Ferro.

13 Now, let me talk a little bit about this  
14 Firefighters' Hall incident. That Firefighters' Hall  
15 incident was at the union's property on 90 Printery  
16 Street. Lori Franchina was off duty. It was not  
17 something that was sponsored by the city. It was not  
18 something that the city itself took part in. It was  
19 purely a union function.

20 When Lori Franchina went to Superior Court and  
21 attempted to get a restraining order, we know that she  
22 got one. Immediately upon learning that there was a  
23 restraining order, Chief Dillon, chief of the  
24 department, issued an order through an e-mail.

25 That's Exhibit G, your Honor, if I could put

1       that up, please.

2               THE COURT:    Sure.

3               MR. McHUGH:   Now, if you can see that at the  
4       top, that's from Chief Dillon.   The subject is Lori  
5       Franchina, Lieutenant Franchina, and he says in the  
6       e-mail that she's obtained a restraining order against  
7       McGarty; but he also says the order's not in force  
8       during emergency responses but is in force in the  
9       station.

10              So, in other words, if Rescue 3 or Rescue 5,  
11       whatever rescue Lori Franchina is working on, is sent  
12       to a working fire and, wherever McGarty is working, his  
13       truck is there, that's fine; but they don't work  
14       together, and he doesn't get assigned to the same  
15       station that she does.   And then it talks about they  
16       can respond to emergencies together, but they can have  
17       no other contact.

18              And admittedly in this e-mail Chief Dillon is  
19       talking about it presents a problem for call-backs.  
20       Call-backs occur when somebody is on vacation, out  
21       sick, and they need someone to cover.   So they will  
22       call back, literally call back firefighters who are on  
23       a day off and pay them overtime.

24              Different people at different times will be  
25       assigning the call-backs.   Now, there's over 400 -- at

1 the time over 400 firefighters in the Providence Fire  
2 Department. Not everyone who is assigning a  
3 firefighter to a call-back is going to have in mind  
4 Chief Dillon's order of one particular firefighter out  
5 of 400 firefighters.

6 So if you look at number one, the order from  
7 Chief Dillon was he's not to be given a call back in a  
8 station that has a rescue assigned so that there  
9 wouldn't be any contact with Lieutenant Franchina in  
10 the station, in parentheses, if she is subbing or a  
11 change of shift and then, number two, that McGarty was  
12 not to be detailed to a station that had a rescue  
13 assigned so there could be no possibility of them  
14 working together; and number three, McGarty was to be  
15 notified, and it's his responsibility under this order  
16 to tell who's ever doing that substitution that he's  
17 not to be assigned if Lori Franchina was there.

18 Number four is important, too, because number  
19 four says these directions are issued to ensure the  
20 safety and wellbeing of both members, both McGarty and  
21 Lori Franchina. So the department acted swiftly and  
22 tried to make sure that the two of them were separated.

23 Now, the interesting thing about Lori Franchina  
24 on this October 28th day is she's in the station  
25 filling out the paperwork, again, to get IOD, saying

1       that -- this is in 2010 now, saying that she's had a  
2       reoccurrence of the stress that she experienced with  
3       the incident with Firefighter Tang, which never  
4       happened, you're going to find out, and she's in the  
5       station.

6               She's not scheduled to work on the 28th. She's  
7       not there on a call-back. She's not there on overtime.  
8       She walks into the Branch Avenue Station to fill out  
9       the IOD paperwork to try to get her 100 percent  
10      tax-free pay every week.

11             So when she gets there, as she gets there, she  
12      knows McGarty's in the station. She stays there for  
13      several hours anyway. She stays in the Branch Avenue  
14      Station for several hours knowing that McGarty is in  
15      there on a call-back.

16             Somehow someone who was scheduling the call-back  
17      missed this order from the chief or didn't realize that  
18      Lori Franchina was assigned to that station, but it  
19      really didn't matter because she wasn't working that  
20      day anyway.

21             Even though she stays in the station for several  
22      hours, at some point she decides to go with Mr. Martin  
23      and Mr. Braga across the river to the Superior Court  
24      and allege that because McGarty -- the Fire Department  
25      has assigned McGarty to a call-back at the Branch

1 Avenue Station, this is a violation of the restraining  
2 order and they want McGarty held in contempt.

3 So they have a hearing in front of Judge Gallo;  
4 and, guess what, Judge Gallo says, No, this is denied.  
5 There is no contempt.

6 If I could show that on the ELM0, that order,  
7 your Honor.

8 THE COURT: You can, but you might check the  
9 name of the judge on it.

10 MR. McHUGH: So here's the order denying the  
11 restraining order violation based upon the incident on  
12 October 28th. So the hearing was before Judge Gallo,  
13 but Judge Gibney signed the order.

14 So Lori Franchina was trying to blame the  
15 department for a violation of the restraining order by  
16 McGarty when she wasn't even scheduled -- not only not  
17 scheduled to work that day but happened to be in the  
18 station and stayed there for several hours even after  
19 she saw him.

20 Now let's talk a little bit about the alleged  
21 damage aspect of this case. We know she's alleging  
22 post-traumatic stress disorder, we know she's alleging  
23 emotional distress, and we know she's looking for you  
24 to award her money.

25 And we're going to have to keep in mind at the

1 time or I'm going to ask you to keep in mind at the  
2 time that damages are discussed and there's evidence on  
3 damages that her IOD tax-free pay was \$1,246.66 per  
4 week. The department had initially denied it; and I  
5 told you she went to the union, the union filed a  
6 grievance, and they ended up coming to an agreement on  
7 that grievance just at the time she was going to  
8 retire.

9 So she actually received three-and-a-half years'  
10 back pay of injured-on-duty pay. In fact, she had to  
11 amend her tax returns because the pay she had gotten  
12 was taxable; but when she got the three-and-a-half  
13 years of the IOD pay, that was not taxable.

14 Today she's receiving her pension since  
15 December of 2013 from the fire department, and that is  
16 \$2,063.81.

17 The other thing that you have to remember when  
18 she's asking for damages or putting in evidence of  
19 damages is that she's worked very little since 2013, a  
20 job -- a per diem job at \$25 a day cutting lawns. She  
21 hasn't really looked for work, and she's never applied  
22 to any of the other 30 or so fire departments in the  
23 State of Rhode Island or work as another EMT for any  
24 other fire department.

25 Finally, ladies and gentlemen, I told you at the

1 beginning that Lori Franchina had trouble getting along  
2 with male and female firefighters, that she has a  
3 reputation for being difficult to work with both male  
4 and female firefighters, and I'm going to present two  
5 rescue lieutenants as witnesses in this case.

6 They stand in the same shoes and one of them  
7 went to the same academy as Lori Franchina. They stand  
8 in the same shoes that Lori Franchina sat, rescue  
9 lieutenants who work with men and women who have  
10 women -- who have men working under them, men working  
11 above them, and the rescue tech is assisting the  
12 lieutenant and drives the truck. That's the job of the  
13 rescue tech.

14 Both of these individuals, Lieutenant Teresa  
15 Wishart, who is still on the Providence Fire  
16 Department, and Lieutenant Andrea Stuckus, who is still  
17 on the Providence Fire Department, are going to tell  
18 you that in their entire tenure on the Providence Fire  
19 Department as firefighters, as rescue techs, as rescue  
20 lieutenants, they have never been harassed by any male  
21 firefighter, they have never been harassed by any male  
22 officer, they have never been harassed by any female  
23 firefighter, they have never been harassed by any  
24 female officer.

25 The next time I will speak to you will be in my



1 closing argument; and at that time, ladies and  
2 gentlemen, I will ask you to return a verdict on behalf  
3 of the Defendant, the City of Providence. Thank you.

4 THE COURT: Thanks, Mr. McHugh.

5 MR. McHUGH: Thank you, your Honor.

6 THE COURT: Mr. Martin, is the Plaintiff ready  
7 to open its case and call its first witness?

8 MR. MARTIN: Yes, your Honor. The Plaintiff  
9 calls Olayinka Oredugba.

10 THE COURT: Someone is going to need to tell  
11 her.

12 You can come forward, ma'am. If you just come  
13 by the witness stand over here and remain standing,  
14 Ms. McGuire is going to swear you in.

15 OLAYINKA OREDUGBA, PLAINTIFF'S WITNESS, SWORN

16 THE CLERK: Would you please state your name and  
17 spell your last name for the record.

18 THE WITNESS: Olayinka Oredugba,  
19 O-R-E-D-U-G-B-A.

20 THE CLERK: Thank you. You may be seated.

21 THE COURT: Ma'am, if you'd just make yourself  
22 comfortable, pull the chair in so that you're  
23 comfortable and, once you get comfortable, take the  
24 microphone and the base, everything moves about it, and  
25 you can also move this up and down. So just speak

1 right into it when you speak.

2 THE WITNESS: Like this, your Honor?

3 THE COURT: That's great, but you can pull it  
4 closer towards you so you don't have to lean. That's  
5 great.

6 Mr. Martin.

7 MR. MARTIN: Thank you.

8 DIRECT EXAMINATION

9 BY MR. MARTIN:

10 Q. Good morning.

11 A. Good morning.

12 Q. Can you hear me okay?

13 A. Yes, I can. Thank you.

14 Q. So can you tell the jury what you do for work.

15 A. I am the Equal Employment Opportunity officer for  
16 the City of Providence.

17 Q. When did you start doing that?

18 A. Approximately 2006.

19 Q. And tell us a little bit about your  
20 qualifications, where did you go to school,  
21 professional licenses, stuff like that.

22 A. I am a member of the bar of Rhode Island. I  
23 attended law school at Roger Williams University School  
24 of Law. I attended undergraduate at University of  
25 California, Santa Cruz.

1 Q. Now, when you say you're a member of the bar, that  
2 means you're a lawyer?

3 A. Yes, it does.

4 Q. Now, in your capacity as the -- did you say your  
5 job is the EEO officer?

6 A. Yes.

7 Q. Tell me about the rankings in your office. Are  
8 you the top EEO person? Is there anyone above you?

9 A. I am the EEO person. The Director of Human  
10 Resources is above me.

11 Q. Okay. So are you responsible for all EEO office  
12 investigations and recommendations for the entire city?

13 A. With the exception of the school department.

14 Q. With the exception of the school department. So  
15 how many employees total are you responsible for  
16 throughout the entire city?

17 A. Approximately 2,300, give or take.

18 Q. Do you have a staff?

19 A. No.

20 Q. Okay. How many of those employees are from the  
21 fire department?

22 Let me ask you a better question. Back in 2007,  
23 2008, 2009, how many of those employees were employed  
24 by the fire department?

25 A. I don't know.

1 Q. Does 435, give or take a few, sound about right?

2 A. It sounds reasonable.

3 Q. You'd agree that it's certainly more than 15?

4 A. Yes.

5 Q. Certainly more than 15 full time?

6 A. Yes.

7 MR. MARTIN: I actually want to go a little out  
8 of order from what I was expecting to do. Your Honor,  
9 may I show the witness what has been premarked by the  
10 Defendant as Exhibit A?

11 THE COURT: Sure. As long as you identify the  
12 exhibit for the record, you're free to use --

13 MR. MARTIN: I think in this case it might be  
14 easier to bring it up because it's three pages.

15 THE COURT: The courtroom is yours, Mr. Martin.  
16 Whatever you'd like.

17 MR. MARTIN: So I'm bringing up Defendant's  
18 Exhibit A, the sexual harassment policy.

19 Q. Could you just take a moment to look through that,  
20 please. Do you recognize this document?

21 A. Yes.

22 Q. Without telling us any of the contents within the  
23 document, can you tell us what it is.

24 A. Sexual harassment policy.

25 Q. For?

1       A.     City of Providence.

2       Q.     This is the current sexual harassment policy?

3       A.     Yes.

4       Q.     Is this in the same -- and who created this  
5       policy?

6       A.     I don't know.

7       Q.     Is this the policy that you go by during the  
8       course of your everyday work currently?

9       A.     It's the policy -- yes.

10      Q.     And is it in the same or substantially the same  
11     condition as it is when you hand it out or use it or  
12     stuff like that?

13      A.     Yes.

14             MR. MARTIN: Your Honor, we offer this as  
15     Exhibit 1.

16             THE COURT: Any objection?

17             MR. McHUGH: I thought it was Defendant's A  
18     already. I thought it was already entered full as  
19     Defendant's A.

20             THE COURT: There's been no evidence entered so  
21     far. Any evidence that's going to be admitted has to  
22     be admitted before the jury. So right now there is no  
23     evidence.

24             So you're moving Plaintiff's Exhibit 1?

25             MR. MARTIN: Your Honor, I'm moving Defendant's

1 Exhibit A into evidence as Plaintiff's Exhibit 1.

2 THE COURT: Any objection?

3 MR. McHUGH: No, your Honor.

4 THE COURT: Plaintiff's Exhibit 1, which will be  
5 a duplicate of Defendant's Exhibit A, are both admitted  
6 without objection.

7 (Plaintiff's Exhibit 1 and Defendant's Exhibit A  
8 admitted in full.)

9 MR. MARTIN: May I have the ELM0, please.

10 Q. Ms. Oredugba, am I pronouncing that right?

11 A. Yes.

12 Q. You would agree that this current sexual  
13 harassment policy directs people to make their  
14 complaints in writing; correct?

15 A. Yes.

16 Q. Directly to your office?

17 A. Yes.

18 Q. Can you see right down here where my finger is?  
19 Can you read that?

20 A. I can read the part that says 4/2013.

21 THE COURT: You can zoom in.

22 MR. MARTIN: Maybe.

23 Q. Can you see those -- oops. Can you see the three  
24 letters before the 4 now?

25 A. Yes.

1 Q. And what are the three letters?

2 A. It appears to be REV.

3 Q. So it says REV.4/2013?

4 A. Yes, I believe so.

5 Q. Does that mean that was revised in 2013?

6 A. Yes.

7 Q. Was this the policy that was current when Lori  
8 Franchina was an active employee for the Providence  
9 Fire Department?

10 A. I don't know.

11 Q. I'm now going to show you what's been previously  
12 marked as Plaintiff's -- excuse me, the agreed-upon  
13 Exhibit Number 3.

14 THE COURT: Counsel, just so we're clear for our  
15 record keeping, any exhibit that you're offering will  
16 have a Plaintiff's number and any exhibit that the  
17 Defendants are offering will have a Defendant's letter.

18 So if they're jointly agreed to and you're  
19 offering it, it will be called Plaintiff's whatever the  
20 appropriate number is.

21 MR. MARTIN: I see. Thank you.

22 THE COURT: When you say that, I'll just know  
23 that the Defendants don't have an objection to it  
24 coming in, but you still have to move it in. Once it's  
25 identified by the witness, it still has to be moved in

1 before the jury to be a full exhibit.

2 MR. MARTIN: My problem was, I didn't tell the  
3 clerk that I only wanted the witness to see it. I'm  
4 sorry.

5 THE CLERK: It's only being shown to her.

6 MR. MARTIN: Okay. Good.

7 THE COURT: Vickie's pretty good at that.

8 Ladies and gentlemen, let me just sort of  
9 explain so that you're not kept in the dark. How we do  
10 this, and it's got nothing -- we do this in every  
11 trial, is that before you can see a document, I have to  
12 admit it into evidence.

13 Before I admit it into evidence, it has to  
14 generically be identified by the witness, this is, you  
15 know, a sexual discrimination policy for the city.

16 They've exchanged documents between the sides,  
17 so the other party has a right to object to it coming  
18 into evidence.

19 That's why there will be times where the witness  
20 and I and the parties can see an exhibit but you won't  
21 yet. The only thing that you're to consider is  
22 evidence that I admit in full. It will be considered a  
23 full exhibit. When I say that, Vickie will hit a  
24 button, and then you'll be able to see it.

25 Until that point when it's just in the



1 identification stage, you won't see it. Nothing's  
2 being hidden from you. It's just a procedure we have  
3 to go through to make sure that only admissible  
4 evidence comes in.

5 In the world of electronics now, we're able to  
6 do that very conveniently where a button can just be  
7 pushed and the appropriate people can see it. And then  
8 when it's in full, the important people in the room,  
9 the 10 of you, will then be able to see it; but you  
10 only see it once it's been admitted in full.

11 Mr. Martin.

12 MR. MARTIN: Thank you.

13 Q. Have you had a chance to look at the document?

14 A. Yes.

15 Q. And without telling us the contents of the  
16 document, can you tell us what it is.

17 A. Yes.

18 Q. Could you please do so.

19 A. It is an informational form that's sent to  
20 individuals who have contacted me sometimes.

21 Q. And you see down the bottom here it says that it  
22 was revised in May of 2007; correct?

23 A. Yes.

24 Q. Is this in the same or substantially the same  
25 condition as it was when it was used by your office in

1 May of 2007 and after?

2 A. Yes.

3 MR. MARTIN: Your Honor, we offer this as --  
4 this is marked as Plaintiff's 3. We offer it as  
5 Plaintiff's 2.

6 THE COURT: You can offer it as Plaintiff's 3.

7 MR. MARTIN: We offer it as Plaintiff's 3.

8 THE COURT: Any objection?

9 MR. McHUGH: No objection.

10 MR. MARTIN: I see the system now.

11 THE CLERK: In the book you have Exhibit  
12 Number 1, which is not the same as you admitted before.

13 THE COURT: We'll straighten that out during the  
14 break. Thanks.

15 Plaintiff's Exhibit 3 is admitted as a full  
16 exhibit and can be shown to the jury.

17 MR. MARTIN: Thank you.

18 (Plaintiff's Exhibit 3 admitted in full.)

19 Q. Now, back in 2007, in the second paragraph, fire  
20 department and city employees were told that many  
21 workplace complaints could be resolved at an informal  
22 level; is that correct?

23 A. That's what it says in the document.

24 Q. And they were instructed at times an employee  
25 wanting a specific behavior to stop, it goes on to say

1       that they may attempt to speak directly with the  
2       individual whom they see as creating the problem;  
3       correct?

4       A.    That's what it says, yes.

5       Q.    And then they're told if that does not resolve the  
6       conflict, the employee should seek the assistance of  
7       their immediate supervisor; is that correct?

8       A.    Yes, that's what it says.

9       Q.    And then it's after that informal process then  
10      they would be required to make a complaint to you in  
11      writing; correct?

12           MR. McHUGH:  Objection as to form, the word  
13      "required."

14           THE COURT:  Sustained.

15      Q.    Well, according to the document, if this informal  
16      approach does not work and the employee is experiencing  
17      on-the-job harassment or unlawful discrimination, they  
18      should file a complaint with you?

19      A.    It says they may.

20      Q.    They may.

21      A.    They have the option.

22      Q.    And then it goes on to say that EEO complaints  
23      must be in writing.  Here.

24      A.    Yes.

25      Q.    So at least in 2007, employees were instructed to

1 take their complaints to their immediate supervisor or  
2 the informal approach?

3 A. I don't know how they were instructed.

4 Q. Well, through this form; right? Isn't that what  
5 it says?

6 A. This form -- that is what the form says.

7 Q. Did you train the immediate supervisors on how  
8 they should respond when an employee brings them an  
9 informal complaint of harassment or discrimination?

10 A. It depends on which immediate supervisors.

11 Q. Did you train any supervisors back in 2007, 2008,  
12 2009?

13 A. Probably.

14 Q. When you say probably, does that mean that you  
15 don't remember or you do remember training supervisors?

16 A. It means I remember training individuals, and I  
17 don't know offhand as I sit here who was trained.

18 Q. Do you know if the supervisors in the Providence  
19 Fire Department were trained in how to respond to  
20 informal complaints of sexual harassment or  
21 discrimination?

22 A. At any point in their history?

23 Q. Fair enough. During the years 2007, 2008, 2009,  
24 do you know if any of their supervisors were trained in  
25 how to respond to an informal complaint from an

1 employee of harassment or discrimination?

2 A. I don't know.

3 Q. As the EEO officer, do you know who would know?

4 A. Not necessarily.

5 Q. Is it -- let me move on. Now, you first  
6 interacted professionally with Lori Franchina in August  
7 of 2009; correct?

8 A. Yes, as far as I recall.

9 Q. And you'd received an e-mail from Chief Crawford  
10 regarding her?

11 A. I received -- I believe so. I met with Chief  
12 Crawford in 2009.

13 Q. Do you recall what Chief Crawford told you about  
14 Ms. Franchina at the time, why he was consulting with  
15 you?

16 A. I recall some of what he said, yes.

17 Q. Could you tell us what he said.

18 A. Well, I'm not certain whether this was 2009, but  
19 he said that there was some concern over placements,  
20 partnering and rescue.

21 To be clear, I met with Chief Crawford on  
22 various things; but he, I believe, said that  
23 Ms. Franchina was concerned about people or I guess  
24 maybe her subordinates operating according to procedure  
25 or what she perceived procedure to be.

1 I recall him saying that she was a hard worker  
2 but that her personality was sometimes somewhat  
3 abrasive, and I recall him saying that he was seeking  
4 to make the working situation -- to improve the working  
5 situation for her and I guess all involved.

6 Q. As the EEO officer at that time, did you have any  
7 authority to enforce rules and regulations of the  
8 Providence Fire Department that were not related to  
9 unlawful harassment or discrimination or retaliation?

10 A. No.

11 Q. Did Chief Crawford tell you, then, why he chose to  
12 address those issues with you?

13 A. Not that I recall.

14 THE CLERK: What number is it, please?

15 MR. MARTIN: This is Plaintiff's Exhibit  
16 Number 1.

17 THE CLERK: Can't be.

18 MR. MARTIN: Number 35.

19 THE CLERK: If that's the next on your list.  
20 Yes, I think it is. You gave me 34, so 35.

21 Q. Let me show you what's been marked as Plaintiff's  
22 Exhibit 35. Can you just take a minute to look at  
23 that.

24 A. Yes.

25 Q. Thank you. This is an e-mail from Jeffrey

1 Crawford to you?

2 A. Yes.

3 Q. On Tuesday, August 11th, 2009, at 3:33 p.m.?

4 A. Yes.

5 Q. And you recall receiving and reading this e-mail?

6 A. Not specifically.

7 Q. Well, you know that it was sent to you, though?

8 A. I don't deny that it was sent.

9 Q. And it's in the same or substantially the same  
10 condition as it was when you received it?

11 A. Presumably.

12 MR. MARTIN: Your Honor, we offer this as  
13 Plaintiff's 35.

14 MR. McHUGH: No objection, your Honor.

15 THE COURT: Exhibit 35 will be admitted as a  
16 full exhibit without objection.

17 (Plaintiff's Exhibit 35 admitted in full.)

18 THE COURT: Mr. Martin, you might want to zoom  
19 in a little bit. I'm finding it hard to read.

20 MR. MARTIN: Is that better?

21 Q. So the message started that he had just had a  
22 meeting with Lori Franchina; is that correct?

23 A. Yes.

24 Q. Was this the first time you'd ever heard of Lori  
25 Franchina making any type of complaint?

1       A.    I don't -- I'm not certain.

2       Q.    And he said that it was following one run in  
3       particular in which she believed that she was exposed  
4       to blood and bodily fluid?

5       A.    Yes.

6       Q.    It goes on to say that it turned out that the  
7       exposure was not significant; however, the manner of  
8       exposure has been the last straw of a series of hostile  
9       work experiences. Do you see that?

10      A.    That's what it says here.

11      Q.    Okay. Did the term "hostile work environment"  
12      have any particular meaning for you as the EEO officer?

13      A.    Did it?

14      Q.    Yes.

15      A.    I don't specifically recall reading this e-mail as  
16      such.

17      Q.    But do you recall the meeting with him?

18      A.    Yes.

19      Q.    Okay. Did he explain to you what the manner of  
20      exposure was that the e-mail claims was the last straw  
21      of a series of hostile work experiences?

22      A.    I believe so.

23      Q.    And what was the manner of exposure?

24      A.    Well, I believe it is alleged to have been someone  
25      taking off their glove; and in taking off their glove,



1       bodily fluids, it's my understanding, were spread  
2       about.

3       Q.     Now, when you get a complaint from someone  
4       regarding an allegation or a concern of sexual  
5       harassment, you have a few different options, don't  
6       you?

7       A.     Yes.

8       Q.     You could tell them, Hey, this doesn't sound like  
9       an EEO issue; right?

10      A.     I could.

11      Q.     Or you could investigate further?

12      A.     Yes.

13      Q.     And before -- I mean, with 2,300 employees, before  
14      you decide to investigate further, you would have to  
15      conclude that the allegation at least had some merit;  
16      correct?

17             Maybe "merit" is a bad word. I'm sorry. Some  
18      indication that it would involve a topic that falls  
19      under the category of, or under the jurisdiction of the  
20      EEO officer; correct?

21      A.     Not necessarily.

22      Q.     No? So there would be circumstances in which you  
23      investigate claims that are not related to harassment  
24      or discrimination or retaliation?

25      A.     Correct.

1 Q. And why is that?

2 A. Because my manager has instructed me to also cover  
3 employee disputes, general human resources, employee  
4 relations matters that don't necessarily fall under  
5 EEO.

6 Q. So you're taking care of all of the EEO  
7 complaints, general disputes, general human resources  
8 with no staff under you?

9 A. I'm taking care of all of the EEO complaints. I  
10 share responsibility for general disputes and employee  
11 relations matters.

12 Q. And when you talk about general disputes and  
13 general human relations matters, is that also 2,300  
14 employees, the same 2,300, or are there some additional  
15 employees?

16 A. There would be additional employees.

17 Q. How many additional employees are there?

18 A. It could be up to an additional 2,000.

19 Q. So 2,300 for EEO, 4,300 for employee disputes and  
20 general human resources functions?

21 A. Approximately, yes.

22 Q. And you said you share that responsibility. Who  
23 do you share that responsibility with?

24 A. With other managers in the Human Resources  
25 Department.

1 Q. And how many managers were sharing those  
2 responsibilities in the years 2007, 2008, 2009?

3 A. It has -- well, so in 2007 -- 2007, I would say  
4 there were three; 2008, three; 2009, three.

5 Q. Okay.

6 A. Including myself.

7 Q. If I ever cut you off, just let me know. I'm  
8 sorry. So when dealing just with your EEO function,  
9 when you -- you didn't have authority to discipline  
10 firefighters, you could only make recommendations;  
11 correct?

12 A. Correct.

13 Q. And in conducting your investigations, you rely  
14 heavily on the chiefs of the department; correct?

15 A. At times.

16 Q. Because they have one-on-one, direct contact with  
17 the people at play?

18 A. To the best of my knowledge.

19 Q. And they know the policies and the procedures and  
20 the kind of specifics of the fire department?

21 A. Presumably.

22 Q. And because your -- you were pretty busy?

23 A. Yes.

24 Q. You couldn't conduct all of the EEO investigations  
25 for the entire city all by yourself?

1 MR. McHUGH: Well, I'm going to object. Lack of  
2 foundation.

3 THE COURT: Overruled.

4 A. Not to the extent that I would want. Not as  
5 completely as I ideally would want.

6 Q. And in this case you were relying on some  
7 information from Chief Crawford; correct?

8 A. Yes.

9 Q. And other chiefs would provide additional  
10 information as well from time to time?

11 A. In this matter or in general?

12 Q. Thank you. I'm sorry. That wasn't very clear.  
13 Let me ask you a better question.

14 In this first encounter with Lori Franchina in  
15 August of 2009, you spoke with Chief Crawford and some  
16 other chiefs in order to gather information?

17 A. In August 2009, I know I spoke with Chief  
18 Crawford. I don't know if I spoke with other chiefs in  
19 August of 2009.

20 Q. Did Lori cancel appointments with you?

21 A. I believe so.

22 Q. You believe so or do you remember her canceling  
23 appointments?

24 A. I recall at some point. I don't know that it was  
25 August 2009.

1 Q. Okay. So do you recall if she canceled two  
2 appointments in August, September, October of 2009?

3 A. I don't recall.

4 Q. Huh. Do you keep any type of datebook or anything  
5 where somebody could learn that she canceled or failed  
6 to show to two appointments at that time?

7 A. Not as strictly as that. I do try to make note.

8 Q. And do you prepare a report in connection with  
9 your investigation? Maybe "report" is the wrong word.

10 You filled out a form called Complaint Form,  
11 then underneath Complaint Form, EE0/AA Complaint Number  
12 2009-026; correct?

13 A. I did not prepare a report with respect to this  
14 matter. I believe that I did fill out my standard  
15 complaint form.

16 Q. I'm going to show you what's marked as Plaintiff's  
17 15. It's EE0/AA Complaint 2009-026. Actually, I'm  
18 going to bring it to you because it's multiple pages.

19 Ms. Oredugba, having had a chance to review  
20 these four pages, is this complaint in the same or  
21 substantially the same condition as it was when you  
22 filled it out?

23 A. Yes, to the best of my knowledge.

24 MR. MARTIN: Your Honor, we offer this as  
25 Plaintiff's Exhibit 15.

1 MR. McHUGH: No objection, your Honor.

2 THE COURT: Plaintiff's Exhibit 15 is admitted  
3 as a full exhibit.

4 (Plaintiff's Exhibit 15 admitted in full.)

5 Q. Now, up here where it says "Crawford (EMS  
6 Division)," Chief Crawford was the chief of the EMS  
7 Division; correct?

8 A. Yes.

9 Q. Lori Franchina worked for the EMS Division?

10 A. Yes.

11 Q. He was her immediate supervisor?

12 A. I know he was her supervisor. I'm not certain he  
13 was her immediate.

14 Q. And according to the complaint information form we  
15 looked at earlier revised in May of 2007, it was  
16 appropriate for Lori to bring her informal complaint to  
17 Chief Crawford?

18 A. Certainly.

19 Q. And underneath his name are some bullet points of  
20 things that you learned from Chief Crawford?

21 A. I don't see bullet points, but --

22 Q. Fair enough. There is a list of things that you  
23 had learned from Chief Crawford that do not have bullet  
24 points?

25 A. Correct.

1 Q. Thank you. One of them is that she's on her game  
2 and she knows her stuff and that the chief gets  
3 compliments. Did he say who he gets compliments from?

4 A. I don't recall.

5 Q. Was it patients or family members of patients?

6 A. I don't recall. It could be. I don't know.

7 Q. Was it her co-workers?

8 MR. McHUGH: Objection. Asked and answered  
9 three times.

10 THE COURT: Overruled.

11 Q. Was it her co-workers who were giving compliments  
12 about her?

13 A. I don't know.

14 Q. Did you ever see any type of -- as of this point  
15 in August of 2009, any type of written complaint about  
16 Lori Franchina's performance of her duties?

17 MR. McHUGH: Objection. Lack of foundation.

18 THE COURT: Overruled.

19 A. Not that I recall.

20 Q. Moving down, it says "difficulty filling spots on  
21 resdue." Do you know what that means?

22 A. I believe that "resdue" is a typo and it should  
23 say "rescue."

24 Q. Oh, I'm sorry. Okay. So that makes more sense.  
25 Sometimes I don't know if it's, like, acronyms.

1           So the difficulty filling spots on rescues.  
2       After two years on the job, Lori is getting rescue  
3       lieutenant's pay. Do you see that?

4       A. Yes.

5       Q. And then he said, Some people view it that you  
6       aren't a real lieutenant, you just walked in and they  
7       handed it to you. Did you follow up on that at all?

8       A. Can you clarify?

9       Q. Sure. Did you ask him who felt that way?

10      A. I don't recall.

11      Q. Did you know how much more rescue lieutenants were  
12      earning than people under the rescue lieutenant?

13      A. Did I know at that time, I don't -- I don't  
14      recall.

15           MR. MARTIN: I'm going to pull it up in just a  
16      second.

17           THE COURT: Ladies and gentlemen, you will have  
18      all of the admitted exhibits in the jury room with you  
19      during your deliberations. Sometimes they fly on and  
20      off the ELMO screen, but you will have all of these  
21      back with you. Anything that's admitted full will be  
22      back with you when you deliberate.

23      Q. On the next page of Exhibit 15 is more information  
24      that you discovered during your investigation; is that  
25      correct?



1       A.    It may still be part of what Chief Crawford was  
2       telling me.

3       Q.    So here it says, "One of the engine guys was doing  
4       chest compressions. He had too much blood on his  
5       gloves. She tells him to change the gloves. In doing  
6       so, he snapped the gloves and the blood snapped on her  
7       forehead." Did I read that correctly?

8       A.    Yes.

9       Q.    Did you ever interview the person who snapped the  
10       gloves?

11       A.    I believe so.

12       Q.    What did he tell you?

13       A.    I don't fully -- I don't recall verbatim, but what  
14       I recall is that he -- that things were moving quickly  
15       and in taking off his gloves, he did not do anything  
16       intentional other than taking off his gloves.

17       Q.    Huh. Did you ask him about the normal protocol  
18       for removing prophylactic -- soiled prophylactic gloves  
19       in an emergency rescue vehicle?

20       A.    I don't recall. I may not have.

21       Q.    Okay. Did you take him at his word that it wasn't  
22       intentional?

23       A.    You're asking if I believed him?

24       Q.    Yeah.

25       A.    Yes.

1 Q. Wouldn't it be helpful to know what the normal  
2 protocol is in removing those soiled gloves before you  
3 determine whether or not he was telling the truth?

4 A. Probably.

5 Q. So if I were to tell you that the normal protocol  
6 is that you put your hand into the trash receptacle and  
7 then remove the first glove and then you take your bare  
8 hand and remove the second glove so that the first one  
9 snaps up into it so that any snappage, for lack of a  
10 better term, goes into the receptacle, if I were to  
11 tell you that that were the proper protocol, would you  
12 still find it credible if someone were to say that they  
13 could accidentally snap blood and brain matter on  
14 another person's forehead?

15 MR. McHUGH: Objection as to form. Lack of  
16 foundation, speculation.

17 THE COURT: Assuming that you're asking that and  
18 that there will be evidence introduced at some point  
19 during the trial of that, assuming that, the  
20 objection's overruled. You can answer.

21 THE WITNESS: Thank you, your Honor.

22 A. I'm --

23 Q. I'll ask you again if you want. Be happy to. So  
24 what we're talking about, as an investigator, somebody  
25 tells you something and you want to figure out if

1       they're telling the truth; right?

2       A.     Uh-huh.

3       Q.     Yes, ma'am?

4       A.     Go ahead.

5       Q.     And one of the things you would do is figure out  
6       what the normal protocol and training is; correct?

7       A.     Ideally.

8       Q.     And then if the person has violated the normal  
9       protocol or training, maybe that's some indication as  
10      to whether or not they've told you something truthful  
11      about their intent; right?

12      A.     It could be.

13      Q.     So let me tell you this. If you were to learn  
14      that the proper protocol for removing soiled  
15      prophylactic gloves is to place your hand into the  
16      receptacle, remove the first glove and then remove the  
17      second glove so that it snaps over it and there's no  
18      soiled glove exposed and that all the debris lands in  
19      the receptacle, would you still find it credible if  
20      someone were to say that they accidentally snapped  
21      blood and brain matter all over someone else's face?

22             MR. McHUGH: Same objection, your Honor.

23             THE COURT: Overruled.

24      A.     Yes, I could.

25      Q.     I'm going to switch to the next page. Now, here's

1 a series of what looks like questions and answers;  
2 correct?

3 A. Yes.

4 Q. And the questions are from you, the EEO officer?

5 A. I believe so.

6 Q. And the answers are from Chief Crawford?

7 A. Yes, I believe so.

8 Q. Okay. You asked, "Are they treating her  
9 differently because she's a woman and they don't like  
10 taking orders or being belittled by her?" Right?

11 A. That's what it says.

12 Q. So you must have gotten some information --

13 MR. McHUGH: I'm going to object. He left out  
14 the rest of that question. The whole question should  
15 be read.

16 Q. "Are they treating her differently because she's a  
17 woman and they don't like taking orders or being  
18 belittled by her? Would they take it better from a  
19 man?" Did I read the entire question?

20 A. Yes.

21 Q. So going back to the first part of the question  
22 where it says, "Are they treating her differently  
23 because she's a woman and they don't like taking  
24 orders," was that something that you were suspicious of  
25 during your interview with him?

1 MR. McHUGH: Objection as to form. Use of the  
2 word "suspicious."

3 THE COURT: Overruled.

4 A. No, I wasn't suspicious.

5 Q. Why did you ask it?

6 A. Because she's female and he came to see me. So  
7 either he said and/or I presumed that that was the EEO  
8 basis on what she was discussing with me.

9 Q. Was Lori Franchina the only rescue lieutenant you  
10 knew of who was having a problem with male subordinates  
11 not following her orders?

12 A. When?

13 Q. 2006, 7, 8, 9.

14 MR. McHUGH: Well, objection. That's four  
15 years' questions, years in one question.

16 THE COURT: Can you answer that collectively or  
17 do you need it broken down, ma'am?

18 THE WITNESS: I can answer collectively.

19 THE COURT: Overruled.

20 A. Lieutenant -- in terms of rank, I don't know.

21 Q. Fair point. Thank you. Maybe I was too specific  
22 with lieutenant. Were you aware of any other female  
23 superior officers besides Lori Franchina who had a  
24 problem with male subordinates not following their  
25 orders?

1       A.     No.

2               MR. MARTIN:  It looks like you think there's a  
3     problem with my question.

4               MR. McHUGH:  Well, objection.  Commenting on --

5               THE COURT:  Sustained.

6       Q.     Were you aware of any females who were having  
7     problems with males not following their orders besides  
8     Lori?

9       A.     With males not following their orders?  Yes.

10      Q.     Moving down, it says, "She's openly gay, believes  
11     they cut her less slack because if the guys think they  
12     have a chance, they cut slack; but if they don't, no  
13     slack."  Did I read that correctly?

14      A.     Yes.

15      Q.     When it says "if they think they have a chance,"  
16     what did you understand him to be telling you?

17      A.     Chance to date.

18      Q.     Date?

19      A.     (Nods affirmatively.)

20      Q.     Does that mean that the women they had a chance to  
21     date were cut more slack than women that they did not  
22     have a chance to date?

23      A.     No.

24      Q.     What did it mean to you at the time?

25      A.     What it meant to me at the time was that she

1       believed that if -- that she -- I don't like to use the  
2       word "slack" but was cut less slack, so to speak,  
3       because she believed that if the males in the  
4       department had the perception that a female -- there  
5       was any potential in dating a female, that she believed  
6       that they would cut those females less slack -- I mean  
7       more slack, so to speak; and if they believed that  
8       there wasn't a chance to date them, then she believed  
9       that they would cut such a female less slack.

10      Q.    But you're saying she believed, but this is a  
11      summary of your investigation with Chief Crawford.

12      A.    Right. I believe he was relaying her belief to  
13      me.

14      Q.    But it doesn't say "she believes." It says,  
15      "She's openly gay," and then it goes on to say,  
16      "Believes they cut her less slack because if they think  
17      they have a chance, they cut slack." It doesn't say  
18      that Lori Franchina told that to Chief Crawford; right?

19      A.    No, it says just what you read, but. . .

20      Q.    And then it goes on, and there's a list of female  
21      names there. And, I'm sorry, the hole punch blocks a  
22      couple out. Did you interview all of those females?

23      A.    Not all of them.

24      Q.    Did you interview some of them?

25      A.    I believe so.

1 Q. Earlier when I asked you about females having  
2 problems with males in the department, I thought I saw  
3 you hesitate. Was there something else that you were  
4 going to say?

5 MR. McHUGH: Well, I'm going to object. He's  
6 characterizing the witness's --

7 THE COURT: Hold on, Mr. McHugh. Hold on,  
8 Mr. Martin. Go ahead.

9 MR. McHUGH: I'm going to object again. He  
10 keeps characterizing the witness's testimony, the  
11 witness's movements, demeanors. It's improper.

12 THE COURT: Mr. Martin, have you called this  
13 witness as an adverse witness?

14 MR. MARTIN: Yes, your Honor, Federal Rule 611.

15 THE COURT: Under 611?

16 MR. MARTIN: Yes.

17 THE COURT: Objection's overruled.

18 Q. I thought you hesitated for just a moment when I'd  
19 asked you about females and males' problems with orders  
20 and whatnot. Was I wrong?

21 A. I don't think so. I don't think you were wrong.

22 Q. Do you think that you did hesitate?

23 A. Yes.

24 Q. Could you tell us why you hesitated when I asked  
25 you about that.



1 A. Because of the -- because of how specific your  
2 question was.

3 Q. Huh. How would you ask the question?

4 MR. McHUGH: Objection.

5 THE COURT: Sustained.

6 Q. So let me ask you, did you have any information  
7 from your investigation about males and women having  
8 problems together, working together at the Providence  
9 Fire Department?

10 A. When?

11 Q. When you were conducting this investigation that's  
12 listed in the complaint.

13 A. Yes.

14 Q. And what was the information that you discovered?

15 A. Well, the reason I hesitated is in every  
16 department there are people who have problems working  
17 together, whether they're male or female. I'm not  
18 trying to be difficult, but --

19 Q. No. That's fine. Did you have any other females  
20 who made complaints of sexual harassment,  
21 discrimination or retaliation during the years 2006,  
22 2007, 2008 or 2009?

23 A. Yes.

24 Q. Did you make -- did you recommend corrective  
25 action at the end of any of those other investigations?

1 A. Possibly.

2 Q. You don't want to tell us who the other females  
3 are; is that correct?

4 MR. McHUGH: Objection, your Honor.

5 THE COURT: Overruled.

6 A. I try to keep confidences to the extent possible.

7 Q. Is your concern about keeping confidences related  
8 to your concern that they could be retaliated against?

9 A. My predominant concern with all matters with any  
10 department is the privacy of the individual who comes  
11 to meet with me.

12 Q. Do you have a concern at the Providence Fire  
13 Department that women who make complaints to you about  
14 harassment or discrimination or retaliation will be  
15 retaliated against?

16 A. Not a specific concern.

17 Q. Not a specific concern. What about a general  
18 concern?

19 A. With respect to the fire department?

20 Q. Yes.

21 A. No.

22 Q. I'm approaching with Exhibit Number 16.

23 Ms. Oredugba, you've just reviewed Plaintiff's 16,  
24 which is Complaint Form EEO Number 2009-038; is that  
25 right?

1 A. Yes.

2 Q. This is another complaint form that you wrote in  
3 regards to Lori Franchina?

4 A. Yes.

5 Q. This is in the same or substantially the same  
6 condition as it was when you created it?

7 A. It appears so.

8 MR. MARTIN: Your Honor, we offer this as  
9 Exhibit 16.

10 MR. McHUGH: I object to pages 1 through 6 of  
11 Exhibit 16 only, and the reason is they're the same as  
12 pages 1 through 6 of Exhibit 15. So it's cumulative  
13 and duplicative.

14 THE COURT: Objection's overruled. The exhibit  
15 will be admitted as a full exhibit.

16 (Plaintiff's Exhibit 16 admitted in full.)

17 Q. So, Ms. Oredugba, the first six pages are the same  
18 as the last report; correct?

19 A. Yes.

20 Q. And what you did was you just copied and pasted  
21 that so that this would be comprehensive?

22 A. I copied and pasted it.

23 Q. And then after the six pages is when you started  
24 adding the new information related to this new  
25 complaint?

1 A. Yes.

2 Q. So I'm going to start with showing you the new  
3 pages and not the old pages.

4 A. Okay.

5 Q. Now, on page 7 towards the bottom it says, "Have  
6 you brought these events to anyone else's attention?  
7 If so, please state who and when the events were  
8 brought to their attention." Do you see that?

9 A. Yes.

10 Q. Did you get an answer to who else she told about  
11 the events that she was complaining about?

12 Actually, let me start back and make it a little  
13 bit better. That was a question that you posed to Lori  
14 Franchina?

15 A. No, that's just part of the standard form.  
16 There's a standard complaint form that, if things were  
17 done properly and perfectly, is answered by the  
18 complainant.

19 Q. Okay.

20 A. I put my own notes into a complaint form.

21 Q. Okay. Did you at all during this complaint, your  
22 creation of this complaint form, did you speak with  
23 Lori Franchina?

24 A. I'd have to actually see other pages of the  
25 complaint form again. I don't know that this form has

1 my -- I don't believe so. I don't believe that this  
2 form has notes. I'm not sure. I'm sorry.

3 Q. If you want to look, I'm happy to show you.

4 A. Okay. So this does have notes.

5 Q. This has notes taken from a conversation with Lori  
6 Franchina?

7 A. Yes.

8 Q. And when you spoke with Lori Franchina, did you  
9 ask her if she brought these events to anyone else's  
10 attention?

11 A. I don't believe or I don't recall whether I asked  
12 her that specifically.

13 Q. And then in number -- underneath number 11, you  
14 wrote, "Meeting with Chief Farrell September 4th, '09,  
15 in EEO office." Did I read that correctly?

16 A. Yes.

17 Q. Was Lori Franchina present at that meeting?

18 A. No, I don't believe so.

19 Q. And there are different levels of chiefs at the  
20 Providence Fire Department or at least there were in  
21 2007 -- 2009 when you were doing this work; correct?

22 A. Correct.

23 Q. And what rank was this chief?

24 A. At that time I believe he was chief of the  
25 department, meaning head of the department.

1 Q. What did you learn from Chief Farrell about the  
2 Lori Franchina investigation that you were conducting?

3 A. I'd have to refer to my notes.

4 THE COURT: Move the document up, Mr. Martin.  
5 It can't be seen on the screen.

6 Q. So these notes here are what you learned from  
7 Chief Farrell?

8 A. I don't know whether it's what I learned, but it's  
9 what I wrote when speaking with Chief Farrell.

10 Q. So now it says -- in the part of your notes  
11 underneath where it references your meeting with Chief  
12 Farrell, there's reference to Andre Ferro; correct?

13 A. Yes.

14 Q. What did he tell you about Andre Ferro?

15 A. I don't recall.

16 Q. Now, in 2009, in your meeting on September 4th,  
17 2009, you were investigating incidents that had  
18 occurred in August and July of 2009; correct?

19 A. Presumably.

20 Q. And while you were investigating those incidents  
21 in 2009, Chief Farrell informed you about what had  
22 happened in 2006; correct?

23 A. I can't say that.

24 Q. Your notes don't indicate that he had told you  
25 about the situation between Lori Franchina and Andre

1 Ferro?

2 MR. McHUGH: Objection. The document speaks for  
3 itself.

4 THE COURT: Overruled.

5 A. As I look, I don't know what relation this has.  
6 At times, if I have several matters in one department  
7 and I have a person there, I may address various  
8 matters. So this doesn't spark a memory in terms of  
9 all that we discussed, so I can only go by what I  
10 wrote.

11 Q. Well, you didn't work in the department in -- you  
12 weren't the EEO officer in 2006; right?

13 A. I believe I became the EEO officer sometime in  
14 2006.

15 Q. You became the EEO officer in 2006?

16 A. I believe so.

17 Q. Were you the EEO officer when Andre Ferro was  
18 brought up on charges for his conduct versus Lori  
19 Franchina?

20 A. If I was, I was not involved.

21 Q. You weren't involved?

22 A. (Nods affirmatively.)

23 Q. Moving on to the next page, in bold you wrote  
24 here, "There's an issue of female lieutenants not being  
25 respected."

1       A.    No, I didn't write "there's an issue." It says,  
2       "Issue of female lieutenants not being respected."

3       Q.    Okay. And then underneath it, it says, "Tell them  
4       to approach the officer you're coming on the run. I  
5       expect your cooperation. If response from that officer  
6       is that they're not doing it, then they should contact  
7       the chief officer." Did I read that correctly?

8       A.    Yes.

9       Q.    What is that supposed to represent?

10      A.    I believe it's what Chief Farrell was telling me  
11      that he either did tell his other officers to tell  
12      their subordinates or that he was going to tell his  
13      other officers to tell their subordinates throughout  
14      the department, the engine companies.

15      Q.    Certainly. So what Chief Farrell's approach was  
16      was for the female lieutenants to tell all the other  
17      officers on the scene, I expect your cooperation, and  
18      that if they didn't get it, they were supposed to call  
19      the chief?

20      A.    I believe his approach was that all officers,  
21      female or male, were to tell their subordinates, You're  
22      going to do XYZ, and if their orders weren't followed,  
23      that all officers, male or female, should immediately  
24      contact whoever the chief officer is.

25      Q.    Well, isn't what happened that Chief Farrell



1 thought of the idea to tell the female lieutenants to  
2 do that and then you were afraid that that would  
3 isolate them or single them out so you asked Chief  
4 Farrell to order all of the lieutenants to do that?

5 A. I don't recall that.

6 Q. Okay. And here there's reference to Lori  
7 Franchina filing a Temporary Restraining Order in  
8 Superior Court against a co-worker?

9 A. Yes.

10 Q. Was this the first time you'd become aware of that  
11 incident when you wrote this note?

12 A. I believe so.

13 Q. On the next page you wrote in italics, "I asked  
14 whether they were in the process of disciplining  
15 McCaffrey." The part in italics represents your words  
16 to them during this meeting?

17 A. Yes.

18 Q. Chief Morgan, who is Chief Morgan?

19 A. At the time he -- I believe he was the  
20 investigative officer for the fire department. He was  
21 one of the chiefs in the fire department, and I believe  
22 he was the investigative officer.

23 Q. Okay. And Chief Morgan told you that they were  
24 bringing the matter to you at HR for you to handle it  
25 because they believed it was likely to result in

1 litigation?

2 A. That's what I noted.

3 Q. Did he tell you what type of litigation they  
4 thought this was going to result in?

5 A. No.

6 Q. Did they tell you that they thought it was going  
7 to be a sexual harassment lawsuit?

8 A. I don't believe so.

9 Q. Did they tell you they thought it was going to be  
10 a discrimination lawsuit?

11 A. I don't believe he said anything more than that.

12 Q. So he basically just said litigation, HR, need  
13 your help?

14 A. I mean, I don't believe -- I don't recall having  
15 any discussion about litigation other than that.

16 Q. Well, as the EEO officer who is investigating Lori  
17 Franchina's complaints, weren't you curious as to what  
18 type of litigation they were afraid of?

19 A. I think more than -- I think my issue was that I  
20 didn't believe it to be procedure to send public safety  
21 matters to HR to administer it. So I think that was  
22 more my predominant concern.

23 Q. My question was, as the EEO officer investigating  
24 Lori Franchina's complaints of harassment and  
25 discrimination, weren't you curious as to what type of

1 litigation her chiefs were afraid of?

2 MR. McHUGH: Objection as to form. Asked and  
3 answered, use of the word "afraid," lack of foundation.

4 THE COURT: Overruled.

5 A. I was likely curious, but I don't know that I  
6 would -- Chief Morgan is probably not where I would go  
7 to get my information. I could get the information  
8 from the Law Department if it's there.

9 Q. Well, my question's a little bit different than  
10 that. My question is, if her superior officers are  
11 afraid that she's going to sue the city for harassment  
12 or discrimination or retaliation, wouldn't that  
13 knowledge be important to you for your investigation so  
14 that you could follow up on that?

15 A. If they were afraid, it would be good for me to  
16 know.

17 Q. So when they tell you that they're afraid of  
18 litigation, wouldn't it also be good for you to say,  
19 What type of litigation are you talking about?

20 A. He didn't tell me they were afraid of litigation.

21 Q. Okay. Well, maybe "afraid" is the wrong word.  
22 When he told you they brought the matter down to HR to  
23 let you handle it because they believed it is likely to  
24 result in litigation, wouldn't it have been helpful for  
25 you to say, What type of litigation?

1 A. It might have been helpful.

2 Q. Then you went on to write, "He feels this has a  
3 relationship to her being harassed or people not  
4 cooperating with her. Doesn't know if it's because of  
5 her sexual orientation. If it is, then it's  
6 information that we need to have." Did I read that  
7 correctly?

8 A. Yes.

9 Q. Now, "He feels this has a relationship to her  
10 being harassed," that's from Chief Morgan?

11 A. Correct.

12 Q. "Doesn't know if it's because of her sexual  
13 orientation," comma. That's from Chief Morgan?

14 A. Correct.

15 Q. "If it is, then it's information that we need to  
16 have." Is that from Chief Morgan or is that from you?

17 A. I believe Chief Morgan.

18 Q. Chief Morgan wanted that information?

19 A. I believe so.

20 Q. Do you know who Chief Morgan wanted to find that  
21 information?

22 A. I don't understand.

23 Q. Was he bringing this to you so that you would  
24 conduct an investigation in order to see whether or not  
25 any of these events were related to her sexual

1 orientation?

2 A. I'm not certain. I think his position is that if  
3 there is something that was found, that it was  
4 important, that he felt it would be incumbent upon him  
5 to take measures so that it wasn't repeated. That's my  
6 understanding.

7 Q. It would certainly be consistent with your  
8 position as the EEO officer for someone to bring that  
9 type of investigation to you to conduct?

10 A. It would.

11 THE COURT: Mr. Martin, would this be a good  
12 time to break for lunch?

13 MR. MARTIN: Great time.

14 THE COURT: Ladies and gentlemen, we're going to  
15 break for lunch. Continue not to discuss this case  
16 amongst yourselves or with anyone else, and we'll see  
17 you back in an hour.

18 (Recess.)

19 THE COURT: Ms. Oredugba, you can come up. You  
20 understand you're still under oath?

21 THE WITNESS: Yes, your Honor.

22 THE COURT: Did you all have a good lunch,  
23 ladies and gentlemen? At some point if you're looking  
24 for food suggestions, I'll tell you; but Thursdays,  
25 just for planning sake, we have a lot of food trunks

1 out on Kennedy Plaza.

2 It's always a good day if you're going to buy  
3 lunch some day. There's usually three or four  
4 different ones out there. If you want my personal  
5 recommendations at some point, I'll be glad to pass  
6 them on. They're during the week, too, but it's  
7 usually one or two. Thursdays is when there's the  
8 most.

9 Mr. Martin.

10 MR. MARTIN: Thank you.

11 Q. Ms. Oredugba, when we left off, we finished  
12 talking about the EEO Complaint Form Number 038.  
13 During this fall and winter of 2009, you became aware  
14 of an incident that occurred between Lori Franchina and  
15 Firefighter Sean McGarty at the Firefighters' Hall?

16 A. Yes.

17 Q. And do you recall how you became aware of that  
18 incident?

19 A. I don't recall how I first became aware, no.

20 MR. MARTIN: May I show the witness Exhibit  
21 Number 10.

22 Q. This is an e-mail. Can you see it?

23 A. Not yet.

24 Q. Can you see that?

25 A. Yes.

1 Q. Please take a moment to read it, and let me know  
2 when you're done.

3 A. Yes.

4 Q. You've had a chance to read that?

5 A. Yes.

6 Q. This is an e-mail from Michael Morgan to you?

7 A. Yes.

8 Q. Dated December 14th, 2009?

9 A. Yes.

10 Q. And this is in the same or substantially the same  
11 condition as when you read it?

12 A. To the best of my knowledge.

13 MR. MARTIN: Your Honor, we offer this as  
14 Exhibit Number 10.

15 MR. McHUGH: Objection for the reasons I argued  
16 yesterday afternoon. If need be, I can restate them,  
17 your Honor.

18 THE COURT: No need to restate them. Thanks,  
19 Mr. McHugh.

20 The objection's overruled. Exhibit 10 is  
21 admitted as a full exhibit.

22 (Plaintiff's Exhibit 10 admitted in full.)

23 Q. Was this the first communication that you received  
24 regarding the incident at the Firefighters' Hall?

25 A. I'm not certain.

1 Q. Now, did you investigate this incident after you  
2 received this e-mail?

3 A. Yes.

4 Q. You read Form 17s that were filled out by  
5 firefighters?

6 A. I believe so.

7 Q. And you read a Form 17 that was filled out by Lori  
8 Franchina?

9 A. Presumably.

10 Q. And this incident is also referred to in your  
11 complaint form that we were referring to earlier,  
12 Complaint Number 038; correct?

13 A. Yes, I believe so.

14 Q. I'm just going to flip back to that for one second  
15 if you don't mind.

16 A. Okay.

17 Q. I'm putting in front of you page number 8 from  
18 Exhibit Number 16. That's the EEO Complaint 038. Down  
19 here at the bottom, I'll zoom in for you, this is the  
20 reference in the report to the Firefighters' Hall  
21 incident; correct?

22 A. I believe so.

23 Q. And it says here that Lieutenant Franchina was off  
24 duty?

25 A. That's what it says.



1 Q. And the other guys were on duty?

2 A. That is what it says.

3 Q. And Chief Morgan mentioned to you that they  
4 shouldn't have been there on duty, but the firefighters  
5 claimed that they had permission?

6 A. That's what the form says here.

7 Q. So if someone were to say that none of the  
8 firefighters were on duty, that would be inconsistent  
9 with what was reported to you during your  
10 investigation?

11 A. That would be inconsistent with what is written  
12 here, yes.

13 Q. Turning back to the December 14th e-mail, which is  
14 Exhibit Number 10, did you speak directly to -- it  
15 lists some firefighters involved. One is Elliot  
16 Murphy. Did you speak to Elliot Murphy directly?

17 A. I don't recall.

18 Q. Did you speak to Sean McGarty directly?

19 A. I don't recall.

20 Q. If we don't have notes from any type of interview  
21 like that, would it be safe to assume that you did not  
22 speak to them?

23 A. I try not to assume, but --

24 Q. Fair enough. Do you typically keep notes when you  
25 conduct interviews for incidents like this?

1       A.    Yes.

2       Q.    And you don't have any notes from these interviews  
3       or, excuse me, let me ask a better question. You don't  
4       have any notes from any interviews regarding this  
5       incident with Elliot Murphy or Sean McGarty?

6       A.    I don't believe I do.

7       Q.    Now, it says down here that Lieutenant Murphy  
8       filed a man annoyed report on December 11th, '09, with  
9       the Providence Police for documentation of an  
10      altercation. Did you review the report that Lieutenant  
11      Murphy filed with the Providence Police?

12      A.    I don't recall.

13      Q.    It also goes on to say that Murphy states he was  
14      struck in the upper arm by Franchina as she exited in  
15      his statement to the police. Did you ever see anything  
16      in which Lieutenant Murphy claimed that he had been  
17      struck by Lieutenant Franchina?

18      A.    I don't recall.

19      Q.    It goes on to say, "Murphy also filed an injury  
20      report due to the alleged assault by Franchina." Did  
21      you read the injury report that was filed by Lieutenant  
22      Murphy?

23      A.    I don't recall.

24      Q.    Do you know what type of injuries Lieutenant  
25      Murphy claimed that Lieutenant Franchina had caused

1 him?

2 A. No, I don't.

3 Q. It was reported to you during your investigation  
4 that Lieutenant Franchina had asked Lieutenant Murphy  
5 to help her?

6 A. Correct.

7 Q. That she believed she was being threatened by  
8 Firefighter McGarty?

9 A. Are you asking if that was reported to me?

10 Q. Yes.

11 A. Well, let's see. It says, "Fire Lieutenant Murphy  
12 was asked to intervene in the confrontation by  
13 Lieutenant Franchina."

14 Q. And at the conclusion of this, your investigation  
15 of this incident, you did make recommendations for  
16 corrective action, didn't you?

17 A. I don't recall making recommendations -- an  
18 official recommendation.

19 Q. Well, you learned that the department was planning  
20 on bringing charges against Firefighter McGarty;  
21 correct?

22 A. Correct.

23 Q. And then you recommended that they should also  
24 file charges against Lieutenant Murphy; correct?

25 A. I don't recall.

1 MR. MARTIN: Can I show Exhibit Number 11 to the  
2 witness.

3 Q. Can you see that okay?

4 A. Yes.

5 Q. Let me know when you're finished reading it.

6 A. I finished.

7 Q. This is an e-mail from you to you?

8 A. Yes, but in looking at it, it looks like -- I  
9 don't know that it was actually sent; but yes, it is a  
10 note from me to my note file.

11 Q. And this is a document that you retrieved from  
12 your files?

13 A. Yes.

14 Q. And it's in the same or substantially the same  
15 condition as it was when you wrote it?

16 A. It appears so.

17 MR. MARTIN: Your Honor, we offer this as  
18 Exhibit 11.

19 MR. McHUGH: No objection, your Honor.

20 THE COURT: Exhibit 11 is admitted as a full  
21 exhibit without objection.

22 (Plaintiff's Exhibit 11 admitted in full.)

23 Q. So on December 22nd, 2009, you took note that  
24 Chief Warren -- who is Chief Warren?

25 A. Chief Warren I believe was the -- he was one of

1 the chiefs in the department. I don't recall whether  
2 he was deputy -- I don't -- I don't recall which  
3 position he held, but he was one of the front office  
4 chiefs.

5 Q. And Chief Warren advised you that they were  
6 preparing charges against Firefighter McGarty?

7 A. Yes.

8 Q. For the incident that occurred at the union hall?

9 A. Presumably.

10 Q. And also against the lieutenant who refused to  
11 assist Lieutenant Franchina?

12 A. That's what it says.

13 Q. Wasn't it your recommendation that the lieutenant  
14 who refused to assist Lieutenant Franchina also be  
15 disciplined?

16 A. My recommendation would be for them to proceed  
17 with carrying out their procedures. So when I spoke  
18 with Chief Morgan and there was discussion of sending  
19 it to HR, HR would not carry out the administrative  
20 procedures of the fire or police department. It would  
21 be for the fire or police to carry out their own  
22 administrative procedures.

23 Q. And after this e-mail, it was your belief that  
24 that procedure was followed through with?

25 A. It was my belief that the procedure -- that the

1 procedure was followed through.

2 Q. You believed that charges had been brought against  
3 Firefighter McGarty?

4 A. Yes.

5 Q. And a hearing held?

6 A. I believe that they followed through with whatever  
7 is the procedure once charges are brought.

8 Q. And you believe that Firefighter McGarty was  
9 disciplined?

10 A. It was my belief that it was followed through,  
11 charges brought and everything that follows pursuant to  
12 fire department procedures, yes.

13 Q. And the same for Lieutenant Murphy?

14 A. Yes.

15 Q. And then over the course of the next few months,  
16 January, February and March, you heard from Lieutenant  
17 Franchina additional times; correct?

18 A. I believe so.

19 Q. On the phone?

20 A. I believe so.

21 Q. She would contact you directly?

22 A. By directly, you mean on the phone?

23 Q. Directly to you, yes, on the phone.

24 A. I believe so.

25 Q. As you advised her to do?

1       A.    I'm not sure if I advised her or not, but I try to  
2       make myself accessible.

3       Q.    Did you fill out any -- do you remember what she  
4       said to you during those times that she called you in  
5       January, February and March of 2010?

6       A.    Not specifically, no.

7       Q.    Did you take any notes or fill out any complaint  
8       forms to keep track of what she said to you?

9       A.    Presumably. Possibly.

10      Q.    Possibly? Do you recall if she was making  
11      complaints to you?

12      A.    Possibly.

13      Q.    Do you recall what type of complaints she was  
14      making to you?

15      A.    Not specifically.

16           (Counsel hands document to witness.)

17      Q.    Please.

18      A.    I do recall her saying that she had filed a  
19      restraining order in Superior Court against someone  
20      else in the fire department.

21      Q.    Do you recall in January, February or March of  
22      2010 if she reported to you any improvement in her  
23      situation regarding how she was being treated at work?

24      A.    I don't recall.

25           MR. MARTIN: Can I show the witness Exhibit 12.

1 Q. I'm showing you what's been marked as Plaintiff's  
2 12. If you can please take a look and let me know when  
3 you're finished reading it.

4 A. Yes. I finished.

5 Q. This is an e-mail from you to Sybil Bailey?

6 A. Correct.

7 Q. Could you tell us who Sybil Bailey is, please.

8 A. She's the Director of Human Resources for the City  
9 of Providence.

10 Q. And you wrote this e-mail to her on May 26th,  
11 2010?

12 A. Yes.

13 Q. This is in the same or substantially the same  
14 condition as it was when you wrote it?

15 A. It appears so.

16 MR. MARTIN: Your Honor, we offer this into  
17 evidence as Exhibit 12.

18 MR. McHUGH: I object because it has not been  
19 redacted. This is the one we discussed yesterday about  
20 possibly redacting information from.

21 THE COURT: I don't remember discussing it. I  
22 apologize.

23 MR. MARTIN: No problem. I have no problem  
24 redacting. There's a reference to something  
25 Ms. Oredugba was going to do that afternoon related to



1 her family. I have no problem redacting that.

2 THE COURT: Great. Can you -- can we do that  
3 without putting -- can we do that speedily?

4 MR. MARTIN: I have a redactor.

5 THE COURT: Ladies and gentlemen, it's a piece  
6 of personal information about her family that was  
7 contained in an otherwise relevant e-mail. And just to  
8 protect her privacy, the office privacy rights, we're  
9 going to take it out.

10 We're not hiding anything from you. We're just  
11 trying to assure that her privacy rights aren't  
12 violated by seeing it. That's all.

13 Other than that, Mr. McHugh, any objection?

14 MR. McHUGH: No, your Honor.

15 THE COURT: Exhibit 12 will be admitted as a  
16 full exhibit without objection as redacted.

17 (Plaintiff's Exhibit 12 admitted in full.)

18 Q. Okay. So at the top, CF, that's Chief Farrell?

19 A. I can't say with certainty. It would -- I would  
20 have to deduce that.

21 Q. Okay. He became very frustrated re: Franchina  
22 situation. It says that?

23 A. Is it across the bottom? Oh, yes. Yes. "CF  
24 became very frustrated re: Franchina situation." Yes.

25 Q. Now, shortly before this, didn't you learn that

1 charges had not, in fact, been brought against  
2 Firefighter McGarty or Lieutenant Murphy?

3 A. I don't recall.

4 MR. MARTIN: Can I have just a minute?

5 THE COURT: Sure.

6 MR. MARTIN: Page 77. Your Honor, I'm going to  
7 be referring to the deposition transcript of Olayinka  
8 Oredugba, page 77, lines 14 through 19.

9 Q. Do you recall attending a deposition?

10 A. Yes, I do.

11 Q. And a deposition is an event in which you give  
12 testimony under oath?

13 A. Correct.

14 Q. And you were represented by counsel?

15 A. In relation to my position with the city.

16 Q. Mr. McHugh was there with you?

17 A. Yes.

18 Q. And I asked you questions?

19 A. Yes.

20 Q. And you raised your hand and swore to tell the  
21 truth, the whole truth and nothing but the truth?

22 A. Yes.

23 Q. And on that day I said to you, "So I just want to  
24 make sure I got this right. Prior to May 19th of 2010,  
25 you had been advised that charges had been brought, a

1 hearing had been held and discipline had been meted out  
2 in relation to the Firefighters' Hall incident?" And  
3 you wrote, "It was my understanding."

4 A. Correct.

5 THE COURT: You mean --

6 A. I said it.

7 THE COURT: She answered.

8 Q. You said it?

9 A. Yes.

10 Q. And you asked him why it hadn't been done as you  
11 had been promised in December; correct?

12 MR. McHUGH: Objection as to form. Use of the  
13 word "promised."

14 MR. MARTIN: Okay. I'll take out the word  
15 "promised."

16 Q. You asked him why discipline had not been meted  
17 out as you were told in December it would be; correct?

18 A. I don't recall.

19 MR. MARTIN: Same page, your Honor and  
20 Mr. McHugh, starting on line 20. That's page 77.

21 Q. I said to you, "And then on May 19th of 2010,  
22 Chief Tom Warren told you unequivocally that they had  
23 not moved forward with any matters because it had been  
24 handed over to the Law Department?"

25 MR. McHUGH: Objection as to form. Use of the

1 word "unequivocally."

2 THE COURT: Overruled.

3 Q. And then on the next page, you objected that you  
4 couldn't speak to the word "unequivocally," and you  
5 said --

6 A. I don't see that, but okay.

7 Q. You said, "I am not sure where they left off, but  
8 he did say that on that day that I spoke with him that  
9 they were not doing anything with the matter because  
10 they had handed it over to the Law Department. And, in  
11 truth, I recall feeling frustrated by that."

12 A. Correct.

13 Q. Okay. And the reason they had turned it over to  
14 the Law Department was because they thought that  
15 Ms. Franchina had filed a lawsuit?

16 A. As I understand that, they turned it over to the  
17 Law Department because they thought that's what they  
18 were supposed to do.

19 MR. MARTIN: Your Honor, same page, number 78,  
20 starting with line 9.

21 Q. "Did he say why they felt like they were not going  
22 to move forward because it resulted in litigation?"

23 Answer, "I think -- my understanding is that it  
24 was his or their belief that was the proper procedure,  
25 if the matter is in litigation, that they hand it to

1 the Law Department." Did I read that correctly?

2 A. Yes, you did.

3 Q. So back in December they had handed it over to HR  
4 because they believed it was going to result in  
5 litigation; correct?

6 A. They attempted to.

7 Q. And you handed it back and said, You handle it  
8 even if it is in litigation?

9 A. I didn't say "even if it is," I mean; but we, HR,  
10 advised them to proceed with their procedures.

11 Q. And there was no litigation in December of 2009  
12 that you're aware of?

13 A. I don't actually know when the Complaint was  
14 filed.

15 Q. But as of December of 2009 you had no belief that  
16 litigation had been filed?

17 A. I did not have knowledge of it being in  
18 litigation.

19 Q. And even if litigation had been filed, that would  
20 not be a justifiable reason to not discipline people  
21 who were deserving of discipline?

22 MR. McHUGH: Objection.

23 THE COURT: Overruled.

24 A. Within the fire department?

25 Q. In this specific case.

1 A. That's my understanding. That's my belief.

2 Q. And then after HR, you, handed it back to them,  
3 they handed it off to the Law Department; correct?

4 A. I don't know what they did specifically after my  
5 conversation.

6 Q. When I read to you that you said back in May at  
7 your deposition that you felt really frustrated after  
8 you found out about it, what was it that made you so  
9 frustrated?

10 A. Because it appeared that they may not have  
11 followed through with what I thought that they did.

12 Q. Did you advise them that they should follow  
13 through in May of 2010?

14 A. I may have. I don't recall.

15 Q. Do you know of anybody who was ever actually  
16 disciplined for the Firefighters' Hall incident  
17 regarding Lori Franchina?

18 A. I do not know.

19 MR. MARTIN: I'm going to show the witness  
20 Exhibit 14.

21 Q. Ms. Oredugba, I'm showing you what's marked as  
22 Plaintiff's Exhibit 14, if you could just take a minute  
23 to read that.

24 A. Yes. I've read it.

25 Q. Okay. This is an e-mail from you to you?

1 A. It is.

2 Q. Dated November 19th of 2010?

3 A. Yes.

4 Q. And this is in the same or substantially the same  
5 condition as it was when you wrote it?

6 A. Well, there's something crossed out at the end.  
7 I don't recall doing that, but it's possible. Maybe  
8 I. . .

9 Q. What about the handwritten part up in the corner,  
10 is that your handwriting?

11 A. It appears so.

12 Q. So other than the crossed-out part, does  
13 everything appear to be the same as when you handwrote  
14 on the printout of this e-mail?

15 A. It does.

16 MR. MARTIN: Your Honor, we offer this as  
17 Exhibit 14.

18 MR. McHUGH: Objection. It's not the same.  
19 It's not a true and accurate copy of the original.

20 MR. MARTIN: Your Honor, may we approach?

21 THE COURT: No. Overruled. The exhibit can be  
22 admitted as full.

23 (Plaintiff's Exhibit 14 admitted in full.)

24 Q. In the handwritten portion, ma'am, it says,  
25 "Please draft letter to memorialize direction to PFD,

1 re: con. with C. Farrell"; correct?

2 A. I believe so. I was actually having difficulty  
3 reading the writing.

4 Q. I should have been a doctor. And then it says  
5 "cc Morgan and Warren"; correct?

6 A. It does say "cc Morgan." That could be Warren.

7 Q. Did you ever draft a letter to memorialize your  
8 direction to the Providence Fire Department regarding  
9 that conversation?

10 A. Not that I recall.

11 Q. Do you remember -- it says "memorialize direction  
12 to PFD." Do you remember what direction you had given  
13 to PFD in November of 2010?

14 A. I don't believe I had given them direction in  
15 2010.

16 Q. But you were talking about writing the letter in  
17 2010?

18 A. Right. At times I will write reminders as to  
19 something that I want to do or have done ultimately.

20 Q. In your mind, this is a note to yourself to give  
21 direction to the Providence Fire Department, not about  
22 direction that you had given?

23 A. Correct.

24 Q. Okay. Thank you for clarifying that. What was  
25 the direction that you were going to give the fire



1 department if you had written a letter?

2 MR. McHUGH: Objection. Calls for speculation,  
3 form.

4 THE COURT: Why don't you rephrase.

5 MR. MARTIN: Sure.

6 Q. Do you recall at the time you planned on giving  
7 directions what those directions were?

8 A. No, because at that time I don't think I had  
9 drawn -- that I had directions to give at that time.

10 Q. Now, a long time had -- well, about six months had  
11 elapsed between the last e-mail I showed you and this  
12 e-mail; correct?

13 A. Yes. The May, yes.

14 Q. And at this point in time you knew that Lori  
15 Franchina was out on stress leave?

16 A. I did not, no. I don't know -- in my course of  
17 work, I don't -- I'm not necessarily alerted if one is  
18 out or when they're in or when someone retires.

19 Q. Didn't something happen or some conversation that  
20 triggered you six months later to write yourself a  
21 note?

22 A. More likely than not.

23 Q. You just don't remember what it was?

24 A. Correct.

25 Q. At the top it says "OY0." Those are your

1 initials?

2 A. They are.

3 Q. "Notes." And in bold it says, "acknowledge  
4 harassment, believe it to be so." Is that you saying  
5 that you believed harassment to be so?

6 A. That's not me saying that. That's putting -- in  
7 my notes at times on various matters I may write  
8 certain possibilities. So I may make note if it's X or  
9 I may make note if it's the opposite, Y, and with the  
10 ultimate intention of filling in the facts that have  
11 been ascertained to support X or Y.

12 Q. Okay. Well, in this case when you wrote  
13 "acknowledge harassment, believe it to be so," what did  
14 you mean?

15 A. I don't -- I couldn't say.

16 Q. Do you know what you meant when you wrote "not  
17 convinced that it is sexual harassment"?

18 A. It could be just as I explained where I may, you  
19 know, write, like, hypothetically if, say, one were  
20 saying guilty, not guilty, and then you'd plug in facts  
21 to support each.

22 So, in short, they're just notes. I often write  
23 notes to trigger my own memory, but then I will also  
24 have all of my other notes in front of me that I can  
25 refer to.

1           One reason I do that is because I have numerous  
2 simultaneous matters that I want to try to remember  
3 what goes with what matter, what department.

4       **Q.**   Do you feel like you have -- at this time had too  
5 many things to complete this the way that you wanted  
6 to?

7       **A.**   Yes.

8       **Q.**   It's fair to say, ma'am, that you're a highly  
9 educated attorney; correct?

10      **A.**   I don't --

11      **Q.**   And you have experience, you've been a trial  
12 lawyer?

13      **A.**   Somewhat. Not a jury trial, but. . .

14      **Q.**   Was there some personal drive that led you to  
15 working in the City of Providence's EEO office?

16      **A.**   No.

17      **Q.**   Do you believe that it's important to eradicate  
18 things like harassment and discrimination and  
19 retaliation for making complaints of harassment or  
20 discrimination?

21      **A.**   I think it's important to address EEO matters.

22      **Q.**   Do you feel like you have the resources to do that  
23 to the best of your -- at this time, 2008, 2009 and  
24 2010, that you were provided with the resources to do  
25 that to the best of your ability?

1 MR. McHUGH: Objection. Relevance.

2 THE COURT: Overruled.

3 A. No.

4 MR. MARTIN: Can I show the witness Exhibit 17.  
5 Actually, you know what, I'm going to go up.

6 Q. I'm going to bring up to you what's been marked as  
7 Exhibit 17 because it's three pages.

8 A. Thank you. Yes.

9 Q. Ms. Oredugba, Exhibit Number 17 is an e-mail from  
10 you to you?

11 A. I believe so. I didn't look at that part.

12 Q. Sorry.

13 A. Yes.

14 Q. Dated November 24th, 2010?

15 A. Yes.

16 Q. And this is in the same or substantially the same  
17 condition as it was when you wrote it?

18 A. It appears so.

19 MR. MARTIN: Your Honor, we offer this as  
20 Exhibit 17.

21 THE COURT: Any objection?

22 MR. McHUGH: No objection, your Honor.

23 THE COURT: Exhibit 17 is admitted as a full  
24 exhibit and can be shown to the jury.

25 (Plaintiff's Exhibit 17 admitted in full.)

1 Q. There's a lot to these three pages, so I'm going  
2 to jump around a little bit. Do you recall why you  
3 wrote notes to yourself on November 24th of 2010?

4 A. Why on that specific date?

5 Q. Or just why in general in that timeframe, November  
6 of 2010, why you were writing another note to yourself.

7 A. Not with respect to that date or timeframe, but I  
8 recall that I had a number of matters and some, like  
9 this, that I felt needed -- that I needed to review.

10 Q. Do you remember why you felt at this point in time  
11 that you needed to review the Franchina matter?

12 A. No.

13 Q. On the second page of the exhibit you wrote,  
14 "Chief Farrell said that following our meeting last  
15 year, he met with all the chiefs in Providence Fire  
16 Department, told them it's their responsibility to  
17 assist her." That's regarding Lori?

18 A. Presumably, but I couldn't say.

19 Q. "If they find out about these things, tell the  
20 lieutenants and captains they have to do their job"?

21 A. That's what it says.

22 Q. And then down below, "He says he believes that if  
23 the officers know that they will be called in and given  
24 a verbal warning, then they will take corrective  
25 action." Correct?

1 A. That's what it says.

2 Q. And those are in regards to Lori's complaints  
3 about insubordination and other things that she  
4 complained about to all of you; correct?

5 A. Presumably. I don't know that -- I don't know  
6 whether the directive was just as it applies to Lori or  
7 that it was in general across the board.

8 Q. And below you made some notations regarding  
9 information you obtained from Chief Crawford; correct?

10 A. Where it says "Chief Crawford reading notes"?

11 Q. Yes.

12 A. Yes.

13 Q. And that says that the number of guys who will not  
14 help her is increasing?

15 A. It says, "The number of guys who will not help her  
16 is increasing." That's what it says.

17 Q. And that was as of 10/5, 2010, October 5th, 2010?

18 A. Yes, that's what it says.

19 Q. He said that she has Form 17s dating back to 2006  
20 that have never been addressed?

21 A. Whether or not he said it, I have, "Chief Crawford  
22 reading notes from 10/15/10," and then three bullets,  
23 the second one being, "She has Form 17s dating back to  
24 2006 that have never been addressed." I don't know  
25 whether he is saying that or he is saying what she has

1 said.

2 Q. Well, I understand that you were busy at the time,  
3 but you certainly took care to make sure that your  
4 notes were accurate; correct?

5 A. I certainly wrote what I believed to be hearing at  
6 the time.

7 Q. And because you were busy and because you have  
8 such a large caseload, you know that you can't humanly  
9 be expected to remember every detail of every case;  
10 right?

11 MR. McHUGH: Objection as to form.  
12 Mischaracterizes the testimony.

13 THE COURT: Overruled.

14 A. I can't speak to what's a human expectation, but I  
15 know that I personally won't remember everything.

16 Q. And the reason that you make these reports is so  
17 that later on down the road you can refer to them and  
18 remind yourself of things that you may have forgotten?

19 A. Well, it's not a report. These are notes; and  
20 they're notes so that, in an ideal circumstance, I can  
21 prepare a report.

22 Q. And certainly if you're creating notes so that you  
23 could create a report, your notes are going to be as  
24 accurate as you can possibly make them?

25 MR. McHUGH: Objection. She just said she

1 doesn't make reports.

2 THE COURT: Overruled.

3 A. No.

4 Q. Is there anything about this note that leads you  
5 to believe that your notes are inaccurate?

6 A. When you say my notes, the entire document or --

7 Q. This one that we're looking at right here where it  
8 says, "She has Form 17s dating back to 2006 that have  
9 never been addressed."

10 A. Oh. I don't take issue with my having written  
11 that.

12 Q. Okay.

13 A. It's just that it doesn't -- again, as I stated,  
14 it doesn't say whether -- Chief Crawford may have been  
15 relaying to me what she relayed to him.

16 Q. I see.

17 A. Just as it says next to that, "And if she has not  
18 done so," I'm not sure what that means.

19 Q. Right. So -- but you agree that it doesn't say  
20 Franchina told Crawford, it says that Crawford told  
21 you?

22 A. It also doesn't say Crawford told me. It just --  
23 above it, it says Chief Crawford reading notes from  
24 10/15 -- 10/5/10, and then it has three bullet points.

25 Q. Then two lines down it says, "Crawford believes



1       that 90 percent of what she says is true."

2       A.    It does say that.

3       Q.    So that part, is there any confusion about what  
4       that part means sitting here reading it today?

5       A.    I can only go by what it says, "Crawford believes  
6       90 percent."

7       Q.    So even if she did relay to him two sentences up,  
8       even if she was the source of information that she had  
9       Form 17s dating back to 2006 that have never been  
10      addressed, Crawford then followed up by telling you,  
11      Hey, I think 90 percent of what she says is true?

12      A.    That is what my notes say, and I do not dispute  
13      that I wrote that Crawford believes 90 percent of what  
14      she says is true. I cannot guarantee that all of this  
15      was said in that sequence within that matter of time.

16      Q.    And then below that -- by the way, right here,  
17      after that line, has something been whited out?

18      A.    Not to my knowledge.

19      Q.    Okay. There's just spaces?

20      A.    I believe so.

21      Q.    Nothing was deleted or anything?

22      A.    No, not to my knowledge.

23      Q.    Okay. And then it says, "Believe there appears to  
24      be ample merit to her claim of multiple and repeated  
25      violations of PFD rules and regulations." Was that

1 your opinion or was that what Chief Crawford relayed to  
2 you?

3 A. It wasn't my opinion. I don't know whether that's  
4 what Chief Crawford relayed to me.

5 Q. Well, it's under your Chief Crawford notes;  
6 correct?

7 A. I mean, it is what comes next; but the three dots  
8 that are above the sentence, usually when I do that, it  
9 means I'm -- it's something separate.

10 Q. Then it goes on to say, "Even seems plausible that  
11 the pervasiveness of this behavior creates a hostile  
12 work environment for her, also seems clear that PFD has  
13 failed to stop the behavior"; correct?

14 A. It does say that.

15 Q. Was that your opinion or was that something that  
16 was relayed to you from Chief Crawford?

17 A. It wasn't my opinion. I don't recall Chief  
18 Crawford saying anything that emphatically or saying  
19 that that emphatically.

20 Q. So it's here in this note, but we, or you, rather,  
21 don't know where it came from?

22 A. I don't recall at the moment, but it is here in  
23 the notes.

24 Q. And on the next page at the top it says, "You  
25 punish one officer, which makes that officer's

1 subordinates angry, and they want to retaliate against  
2 Franchina," et cetera, et cetera and so forth. You  
3 wrote that?

4 A. "Et cetera and so forth." It's in the notes that  
5 I wrote, yes.

6 Q. Was that your opinion or was that something that  
7 you learned from Chief Crawford?

8 A. I don't -- it was not my opinion. I don't recall  
9 Chief Crawford saying that.

10 Q. Okay. As the EEO officer, are you aware in 2007  
11 of what level of proof was required to show harassment,  
12 discrimination or retaliation before you were required  
13 to make a recommendation, a corrective recommendation?

14 MR. McHUGH: Objection as to form, "required."

15 THE COURT: Overruled.

16 A. We don't actually have -- "we" being the city or  
17 city HR, we don't have regulations as stringent as  
18 that.

19 Q. What do you mean when you say you don't have  
20 regulations as stringent as that?

21 A. Well, you said what level of proof or evidence  
22 would be required before I have to make a  
23 recommendation. So the answer I guess would be no.

24 Q. No. No, you don't know what it is or no, it  
25 doesn't exist?

1 A. It could be either, both.

2 Q. What level of proof did you require in 2007, 2008  
3 and 2009 before you would recommend that corrective  
4 action be taken?

5 A. I don't recall. Perhaps a preponderance of  
6 evidence. Perhaps clear and convincing. I actually  
7 don't recall, honestly.

8 Q. But you do recall that there's no required action  
9 after a certain level of proof; is that right?

10 A. I mean, there's certainly a required level of  
11 action if you're aware that there's an imminent threat  
12 of bodily harm either to the complainant or the  
13 complainant has said that they are about to do imminent  
14 bodily harm to someone else.

15 Q. This is page 11, excuse me, starting with line 4.  
16 I asked you, "But what is the standard that you  
17 typically" --

18 MR. McHUGH: I'm going to object. The question  
19 should be read first instead of reading in the middle  
20 of the -- the middle of it. Start on page 10, line 25.

21 MR. MARTIN: Sure. Okay.

22 Q. So I said, "I think that's a fair point."

23 THE COURT: Pull it up, Mr. Martin.

24 MR. MARTIN: Oh, sorry.

25 Q. "I think that's a fair point. I don't want to put

1 words into your mouth. If I'm doing that at any point,  
2 just let me know, just like you did. So I guess we're  
3 not talking about how you've been trained, but what is  
4 the standard that you typically apply when you  
5 determine whether or not you think that there's enough  
6 evidence to warrant further action at the conclusion of  
7 your investigation? Is unequivocal the standard?"

8 And you said, "No. I'd say admittedly I  
9 don't -- I don't consciously think of the standard; but  
10 reflecting on it now, I would say probably more clear  
11 and convincing." Did I read that correctly?

12 A. Yes.

13 Q. And then I asked you, "Have you found there to be  
14 clear and convincing evidence that Ms. Franchina had  
15 been harassed or discriminated against?" And you  
16 answered, "No." Correct?

17 A. Correct.

18 Q. And then I asked, "Did you find there to be a  
19 preponderance of the evidence that she had been  
20 harassed or discriminated against?" And you said, "In  
21 a couple of situations." Correct?

22 A. That's what I said.

23 Q. Is preponderance of the evidence and reasonable  
24 belief, are those similar standards?

25 A. It could be argued they are.

1 Q. But I don't want to argue with you. I just want  
2 to know what you think.

3 A. I mean, I see preponderance of the evidence maybe  
4 51 percent. Reasonable belief may not, may not  
5 quite -- they're similar. I wouldn't see them as being  
6 exactly the same.

7 Q. Reasonable belief is lower than a preponderance of  
8 the evidence?

9 A. In my perception.

10 Q. And clear and convincing is higher?

11 A. Yes.

12 MR. MARTIN: One second.

13 (Pause.)

14 MR. MARTIN: I'm going to refer back to what's  
15 already in evidence as Exhibit Number 3. Is Exhibit  
16 Number 3 in evidence?

17 THE CLERK: Three is full.

18 MR. MARTIN: Thank you.

19 Q. Again, this is the EEO Complaint Information Form  
20 that was in effect in May of 2007; correct?

21 A. Yes.

22 Q. And here in this fourth paragraph it says, "Once a  
23 complaint is filed, the matter is investigated. Upon  
24 determination of reasonable cause to believe that the  
25 unlawful discrimination or harassment occurred, the

1 department administrator or supervisor concerned will  
2 be notified of the allegations.

3 "If it is the department administrator or  
4 supervisor who is alleged to have committed a  
5 prohibited act, the EEO officer will confer with and  
6 refer the matter to the Director of Human Resources for  
7 appropriate action.

8 "Upon completion of the investigation, the EEO  
9 officer will make a determination of findings and  
10 provide recommendations for corrective action."

11 Correct?

12 A. That's what it says.

13 MR. MARTIN: Thank you. I have nothing further.

14 THE COURT: Thanks, Mr. Martin.

15 Mr. McHugh?

16 MR. McHUGH: I'm going to reserve on this  
17 witness, your Honor.

18 THE COURT: Great. You can step down, ma'am.  
19 Thank you.

20 THE WITNESS: Thank you.

21 MR. MARTIN: The Plaintiff calls Danielle Masse.

22 THE COURT: Usually during breaks I find time --  
23 I don't think I told you this during selection. Jurors  
24 always ask about what the oar is for. Have any of you  
25 wondered why we have an oar?

1 I like to joke that it's to whack lawyers if  
2 they go on too long, but I have not done that yet. We  
3 have admiralty jurisdiction in the federal courts,  
4 which means anything that occurs on the high seas or on  
5 any navigable waters, any disputes, whether it's seamen  
6 not being paid or fishermen not being paid or boats  
7 that haven't been repaired properly or accidents at sea  
8 or anything that happens on navigable waters, you can  
9 bring that claim to Federal Court.

10 And years ago when courts sat, you know,  
11 depending on the topic, they would take the oar and  
12 they'd put it out front of the courthouse; and it would  
13 say to all the seamen or the captains or boat owners or  
14 injured people that they could bring their dispute in  
15 admiralty into court.

16 So it's been a tradition of Federal Court -- oh,  
17 you can come up. It's a tradition of Federal Court  
18 that we keep that in here, and it reminds us that we  
19 have admiralty jurisdiction. And if you were hearing  
20 an admiralty case, the tradition is you would put it on  
21 the bench.

22 At some point during this period you were going  
23 to wonder what that is. Wait until I explain the Great  
24 Seal to you during another break and who's staring at  
25 us. We're going to save that one.



1 Mr. Martin. Oh, would you rise and let  
2 Ms. McGuire swear you in.

3 **DANIELLE MASSE, PLAINTIFF'S WITNESS, SWORN**

4 THE CLERK: Please state your name and spell  
5 your last name for the record.

6 THE WITNESS: Danielle Masse, M-A-S-S-E.

7 THE CLERK: Thank you. You may be seated.

8 THE COURT: Is it Officer Masse or --

9 THE WITNESS: Lieutenant.

10 THE COURT: Lieutenant Masse, if you'd just get  
11 comfortable in the chair, why don't you try that now,  
12 and then just pull the microphone in. You have to  
13 speak right into it. The whole base moves.

14 It's particularly important because it sounds  
15 like your voice may be a little low for you to speak  
16 right into it.

17 THE WITNESS: Yes, sir.

18 THE COURT: Great. Thank you, Lieutenant.

19 **DIRECT EXAMINATION**

20 **BY MR. MARTIN:**

21 Q. Good afternoon, Lieutenant. Could you tell us  
22 where you're from.

23 A. From Providence, Rhode Island.

24 Q. Where did you go to school?

25 A. Well, I'm originally from Dighton, Massachusetts,

1 but I went to school at Dighton-Rehobeth High School.

2 Q. And how far did you go in school?

3 A. I'm currently finishing up my bachelor's degree in  
4 public administration at Roger Williams University.

5 Q. What did you do after you left high school?

6 A. When I was a senior, actually when I was a junior  
7 in high school, I joined the Army. I did my basic  
8 training finishing year of high school and then  
9 continued with the Army and with my college education.

10 Q. Are you still enlisted?

11 A. I am.

12 Q. How long have you been enlisted?

13 A. A total of 11 years. I did eight years, had about  
14 an eight-year break in service, and I'm currently back  
15 in in the Rhode Island National Guard.

16 Q. So eight years' break in service, then an  
17 additional three years?

18 A. Yes.

19 Q. Any special certifications or trainings that you  
20 obtained in the military?

21 A. Yes. I joined as a medic for the Mass. National  
22 Guard, and then I transferred to the Reserves as a  
23 drill sergeant.

24 Q. Are you a little bit nervous about testifying here  
25 today?

1 A. Yes, sir.

2 Q. Why is that?

3 A. I don't like public speaking.

4 Q. Well, you're doing fine.

5 A. Thank you.

6 Q. When did you start to work for the Providence Fire  
7 Department?

8 A. In 2001.

9 Q. And can you tell us how you came to be a part of  
10 the Providence Fire Department.

11 A. I started taking karate when I was 12, and a  
12 number of my instructors at the karate school were on  
13 the Providence Fire Department, and they spoke about it  
14 being a secure job and challenging, and it sounded like  
15 something I'd be interested in.

16 Q. When did you go to the academy?

17 A. March of 2001.

18 Q. And obviously you finished?

19 A. Yes.

20 Q. So tell us, what was your original job once you  
21 came out of the academy?

22 A. The first few months as a firefighter. Every  
23 couple of weeks they had us going to different ladder  
24 and engine companies to learn the job.

25 Q. And then what was your next job or your next rank?

1 A. Well, I was assigned a few months later as a  
2 firefighter.

3 Q. And did you eventually transition to Emergency  
4 Medical Services?

5 A. I did.

6 Q. When was that?

7 A. In 2006.

8 Q. Any particular trainings or experience that you  
9 obtained between 2001 and 2006 that led to the  
10 transition?

11 A. I continuously had EMT training through the  
12 military, and the fire department sent me to  
13 EMT-Cardiac school.

14 Q. When did you become a lieutenant?

15 A. Became a lieutenant in 2007.

16 Q. Can you describe for us what it's like for you as  
17 a female working on the Providence Fire Department.

18 A. It's been much more difficult than I had  
19 envisioned it to be.

20 Q. Why is that?

21 A. Coming from the military, I figured that having  
22 a -- being in good physical condition, being, you know,  
23 motivated and knowing how to do my job would be enough  
24 to be considered a competent member of the department;  
25 and that has not been the case.

1 Q. Are there specific areas of your work performance  
2 or your work environment that you found to be  
3 challenging?

4 A. There's been a lot of challenges, yes.  
5 Particularly, being deemed competent to do my job  
6 has -- I don't know. I constantly have had my  
7 competency put into question in ways that it shouldn't  
8 be.

9 Q. Does that include during your experience as a  
10 lieutenant?

11 A. Yes.

12 Q. Does that include from subordinate members of the  
13 department?

14 A. Yes.

15 MR. McHUGH: I'm going to object, leading.

16 THE COURT: Sustained. Be careful, Mr. Martin.  
17 That's all.

18 Q. Could you tell us -- describe for us what made you  
19 feel as if your competency was being questioned.

20 A. Multiple times throughout my career, like when I  
21 was going to become a lieutenant, the officer who I  
22 worked for when I was a tech stated that he didn't feel  
23 I was competent to do the job; and they decided not to  
24 have me act as an officer, and there was no basis or  
25 foundation; and my education in EMS and my experience

1 in EMS were greater than that person's.

2 Q. When you say greater than that person's, you mean  
3 the person who did get the promotion?

4 A. No. The person who told the chief and the chief  
5 that made that decision, my knowledge of protocol and  
6 just the daily workings of how to do my job as an EMT  
7 were greater than that officer, yet they decided not to  
8 put me in charge; and I had to fight to be put in  
9 charge, and there was no reason for it other than they  
10 just didn't want to put me in the position.

11 Q. Sorry to be personal, but could you please tell us  
12 your sexual orientation.

13 A. I'm a lesbian.

14 Q. And how do you feel that women in general are  
15 treated on the department?

16 A. Women are treated as less competent.

17 Q. Can you give me examples besides yourself in which  
18 you've observed that type of treatment.

19 A. Women who have been in charge are not given the --  
20 just the respect by subordinates. They're not seen as  
21 actually being of -- like, of being in charge. They're  
22 spoken to as if they have no authority by subordinates.

23 When issues are brought to the chain of command,  
24 the chain of command doesn't take them seriously,  
25 doesn't deal with them appropriately and then in effect

1 turns them around and treats them as if the problem is  
2 because of the women on the job and usually find some  
3 way to say that the women caused the problem, whether  
4 it was, you know, describing their tone of voice as  
5 squealing when a man in that same position would have  
6 been considered authoritative and competent and  
7 professional.

8 Q. Does that treatment that you just described, does  
9 that include women who are available to date their male  
10 co-workers?

11 MR. McHUGH: Objection, leading.

12 THE COURT: Overruled.

13 A. There are a number of women on the job that have  
14 been in relationships with men, and they seem to get  
15 treated differently. They have protection of some  
16 sort. Other members don't seem to treat them as  
17 negatively when they're in a relationship.

18 Q. Have you ever had an intimate relationship with a  
19 male superior while you were employed by the Providence  
20 Fire Department?

21 A. I have.

22 Q. Who was that?

23 A. Lieutenant Michael Segee.

24 Q. What was your rank when you dated Lieutenant  
25 Michael Segee?

1       A.     Within the first few months finishing the fire  
2       academy while they were moving us from company to  
3       company, I had a relationship with Lieutenant Michael  
4       Segee. I was assigned to Engine 3 for a few weeks.

5       Q.     A moment ago you just described in general that  
6       people who dated men on the job seemed to have  
7       protection. When you were dating a man on the job, did  
8       you have any type of experiences consistent with that  
9       observation?

10           MR. McHUGH: Objection, leading.

11           THE COURT: Overruled.

12       A.     I did.

13       Q.     Could you tell us about that.

14       A.     Yes. When I first got on the job, it was  
15       stressful. It had already proved through the academy  
16       and the first few weeks of the job to be not as simple  
17       to fit in and, you know, be treated according to how we  
18       performed as firefighters.

19           And so Lieutenant Segee was really nice and  
20       supportive, and I found him easy to get along with.  
21       One day he sent me upstairs to the third floor of the  
22       headquarters to have my name put on a detail list so  
23       that I could have -- take details to get extra pay.

24           At that time we, as a practice, would leave our  
25       portable radios on the coats -- in the coats on the



1 truck. And so when he sent me up to the third floor, I  
2 didn't know the voc alarms, they're the machine that,  
3 like, the tone goes off and it tells you where the run  
4 is, up on the third floor the voc alarms either didn't  
5 work or were turned off, and I didn't know that. And  
6 so while I was up there, I missed a run.

7 Q. Can you describe what that means to miss a run.

8 A. It's a violation of the rules and regulations, but  
9 culturally as -- more so as a new person, to miss a  
10 run, it's -- you're treated based upon how well you do  
11 certain things, like, you know, making sure that you,  
12 you know, do the housework and going on runs; and those  
13 small things show, I guess, your effort.

14 And to miss a run is like one of the worst  
15 things as a new person that you could do because it  
16 just -- it shows possible lack of motivation, and it's  
17 a really bad thing.

18 Q. And what type of consequences did you experience  
19 for missing the run?

20 A. I didn't.

21 Q. Do you know why?

22 A. Yes. The lieutenant, Mike Segee, told the members  
23 on the truck not to say anything. He knew that he sent  
24 me upstairs and that I probably didn't know about the  
25 voc alarm, and so he told them not to say anything and

1 to forget that it happened.

2 I don't necessarily think that would have been  
3 the case if he and I weren't in that relationship.

4 Q. Tell us about when you first met Lori Franchina,  
5 or actually do you know Lori Franchina?

6 A. Yes.

7 Q. Can you tell us about when you first met her.

8 A. I met Lori in 2002 at a club one night.

9 Q. Were you working for the fire department at that  
10 time?

11 A. Yes. I was employed for about a year.

12 Q. Was she working for the fire department at that  
13 time?

14 A. She was in the fire academy.

15 Q. Can you tell us about your relationship after you  
16 met.

17 A. We dated for 10 months.

18 Q. When it ended after 10 months, was it amicable?

19 A. It was.

20 Q. So have you met -- did you say it was 2002?

21 A. Yes, in 2002. Probably May of 2002 until I think  
22 March of 2003.

23 Q. What was your relationship like after March of  
24 2003?

25 A. We didn't talk very much for a while after that.

1 I needed some time away. But it wasn't contentious.

2 Q. What about in the end of 2006 and the beginning of  
3 2007, what was your relationship with her like then?

4 A. We were friends.

5 Q. And what about after the beginning of 2007, what  
6 was your relationship like then?

7 A. We stopped talking as much, and I separated from  
8 contact with her for a while.

9 Q. Why did you separate from contact with her?

10 A. Because it was proving difficult to be friends  
11 with her and feel safe at work. I was concerned that  
12 if I maintained contact and people at work knew,  
13 because of the way that they spoke about her at work,  
14 that I might be in danger and my work environment would  
15 become really difficult.

16 Q. How did you hear people speak about her that made  
17 you feel that way?

18 A. She was a pretty general topic of conversation in  
19 the stations. People spoke really poorly of her.

20 Q. Did she have any nicknames?

21 A. She had a lot of nicknames and derogatory comments  
22 to describe her.

23 Q. Can you give us some examples of the nicknames and  
24 derogatory comments you heard them use to describe her.

25 A. Called her Frangina, bitch, quite a few other

1 really awful things.

2 Q. Can you give us examples of any of the other awful  
3 things? Just so that you know, you have permission to  
4 use profanity in a federal courthouse for the purpose  
5 of giving testimony.

6 A. They used the C word. They called her a cunt and  
7 words like that.

8 Q. How often would you hear people refer to her as a  
9 bitch or Frangina or the C word?

10 A. Quite often, and those are the words that they  
11 used. They never used her real name.

12 Q. Was it always that way or was there a certain  
13 point in time when you noticed that started happening?

14 A. For the first few years that she was on the job,  
15 it wasn't bad like that; but after she became an acting  
16 lieutenant, I started to notice that people were having  
17 negative things to say and calling her those things.

18 Q. Sorry. Were you done? Did you ever hear anything  
19 about her and Andre Ferro?

20 A. Yes.

21 Q. What did you hear?

22 A. I heard that he did some pretty crazy things and  
23 that he took his pants off in front of the emergency  
24 room and had some pretty awful things to say about her.

25 Q. Did you hear anything about the fact that he was

1 fired for doing that? Did anyone ever talk about that?

2 A. Yes.

3 Q. What did they say about that?

4 A. They laughed about it. They thought it was funny.

5 Q. They thought it was funny that he was fired?

6 A. The whole scenario. They thought it was funny  
7 what he had done and how he had treated her and that,  
8 you know, they said he would probably end up getting  
9 his job back.

10 Q. I want to talk to you about your work experience  
11 since you've become part of this case. Do you know --

12 MR. McHUGH: Well, objection, leading. And  
13 "part of this case," what does that mean?

14 THE COURT: I think we'll soon find out. Go  
15 ahead, Mr. Martin.

16 Q. Do you know when you were disclosed publicly as a  
17 witness on behalf of Lori Franchina in this case?

18 A. Yes.

19 Q. When was that?

20 A. When I found out, it was in December, around  
21 Christmas of 2014.

22 Q. Anything interesting happen at work after that?

23 A. Yes. At the end of December, on the 30th, I was  
24 brought into the chief's office and accusations were  
25 made against me by the chief. He filed charges against

1 me.

2 Q. Now, in your eight or so years with the military  
3 and your -- in 2015, that would be 14 years on the  
4 department?

5 A. Yes.

6 Q. So in your 20 or so years as a soldier and as an  
7 EMT and firefighter, how many times have you ever been  
8 informed that you were being brought up on disciplinary  
9 charges?

10 A. Never.

11 Q. Do you recall the approximate date of when you  
12 attended a deposition in this case?

13 A. It was first or second week of September 2015.

14 Q. Anything interesting happen in work around the  
15 first or second week of September of 2015?

16 A. I was notified that they were scheduling a hearing  
17 to file charges against me formally.

18 Q. What were the charges about?

19 A. About a run that I went on where I transported a  
20 patient to the emergency room who had been high on  
21 heroin and crashed his car where a state trooper tried  
22 to bully me into signing a refusal for that patient,  
23 and I didn't do that because it's against the rules and  
24 regulations to sign refusals for patients who are  
25 altered, and I transported that patient to the

1 hospital.

2 Q. I just want to break that up. When you say it's  
3 against policies and procedures to accept a refusal  
4 from a person who's altered, first of all, what do you  
5 mean by the phrase "altered"?

6 A. A person who is under the influence of drugs or  
7 alcohol or intoxicating substances or who has a serious  
8 head injury cannot sign a refusal. They need to be  
9 treated as if they're a child, and they're assumed that  
10 they can't make appropriate medical decisions.

11 And so until they've been cleared by the  
12 hospital, we as pre-hospital providers cannot sign a  
13 refusal. They have to be cleared by a doctor before  
14 they can be allowed to go.

15 Q. So you mentioned a couple of things, head injuries  
16 and drugs. What evidence had you seen that there was a  
17 potential head injury to this person?

18 A. The person had drove their car down the highway,  
19 crashed into the barrier on the exit. There was about  
20 a foot of intrusion into the engine compartment of the  
21 car, which in EMS terms is considered a significant  
22 amount.

23 The windshield was cracked above where the  
24 patient was sitting in a circle where it appeared as  
25 though the head had hit the windshield. The airbags

1 had gone off. So at highway speeds, hitting the car,  
2 that showed there was a problem.

3 The patient also had pinpoint pupils, he wasn't  
4 speaking appropriately, he had vomited and just wasn't  
5 acting normal.

6 Q. So that's for the head injury. What was the  
7 evidence that made you suspect there may have been use  
8 of drugs?

9 A. I'm sorry, I combined the two, but the pinpoint  
10 pupils are an indicator of drugs; and then symptoms of  
11 a head injury and use of narcotics or alcohol sometimes  
12 are similar where they might not be speaking  
13 appropriately or behaving appropriately. Those are  
14 symptoms of both of those things.

15 Q. So who was it that complained that you transported  
16 a patient exhibiting those symptoms?

17 A. Apparently the patient made a written statement,  
18 and the trooper stated that I squealed at him. And so  
19 I guess the state troopers forwarded information to the  
20 department about that complaint.

21 Q. So we've discussed when you were disclosed as a  
22 witness.

23 A. Uh-huh.

24 Q. And when you were deposed. When did you receive  
25 your subpoena to testify here today?



1       A.     Last week.

2       Q.     Anything interesting happen at work last week?

3       A.     I was suspended for two-and-a-half weeks without  
4       pay, 10 days, 10 working days. I was removed from the  
5       rescue captains' list. I've been acting as a rescue  
6       captain for the last year and a half.

7               I was given a letter of reprimand in my  
8       permanent file; and then on that same day, a few hours  
9       later, I received the subpoena to testify here.

10      Q.     Are you planning on fighting back about those?

11      A.     Absolutely.

12      Q.     And who have you chosen as an attorney to help you  
13      do that?

14      A.     Excuse me?

15      Q.     Who have you chosen as an attorney to help you do  
16      that?

17      A.     You.

18      Q.     When you -- let me think of how I want to say  
19      this. When you dated the lieutenant, you said you felt  
20      that you were given certain protections.

21      A.     Uh-huh.

22      Q.     What was it like after you were no longer dating  
23      the lieutenant?

24      A.     A few -- I think, like I said, for the first few  
25      months on the job, we were assigned to different

1 companies for a few weeks at a time to get some  
2 experience at different companies; and like I said, a  
3 few months later, I think around November of that first  
4 year, they assigned me to Engine 2.

5 When the paper came out for me to be assigned  
6 there, I was warned by a female firefighter who had  
7 been one of the first females hired to watch my back.

8 MR. McHUGH: I'm going to object, hearsay.

9 THE COURT: Overruled.

10 Q. What did the female firefighter warn you?

11 A. She told me to watch my back with the individuals  
12 on that group at that station because they -- she  
13 didn't really give much more detail than that, but  
14 basically watch out for those individuals.

15 Q. Aren't you afraid of what's going to happen from  
16 you coming here today?

17 MR. McHUGH: Objection, leading.

18 THE COURT: Sustained.

19 Q. Just to be clear, what do you think of the guys  
20 you work with currently on your current crew?

21 A. At Atwells Avenue, I've had a great experience,  
22 and I'm supported by the members that I work with.

23 MR. MARTIN: Thank you. Nothing further.

24 THE COURT: Thanks.

25 Mr. McHugh, are you going to be short or should

1 we take the afternoon break?

2 MR. McHUGH: I think we should probably take the  
3 break.

4 THE COURT: Sure. Ladies and gentlemen, we'll  
5 take our 3:00 break. We'll see you back in about 15 or  
6 20 minutes.

7 (Recess.)

8 THE COURT: Lieutenant, you understand that  
9 you're still under oath?

10 THE WITNESS: Yes, sir.

11 THE COURT: Okay. Great. Mr. McHugh.

12 MR. McHUGH: Thank you, your Honor.

13 **CROSS-EXAMINATION**

14 **BY MR. McHUGH:**

15 Q. Lieutenant, I want to ask you some questions about  
16 the incident you brought up that you're currently under  
17 suspension for. Okay?

18 A. Okay.

19 Q. And that incident occurred on Sunday,  
20 December 14th, 2014; correct?

21 A. Yes.

22 Q. And that was on Route 95?

23 A. Yes.

24 Q. And when you arrived on the scene, Lieutenant  
25 Sullivan had already begun an assessment of the

1 patient?

2 A. Yes.

3 Q. And the State Police were already there at the  
4 time; correct?

5 A. Yes.

6 Q. And then when you arrived, you took over the  
7 assessment from Lieutenant Sullivan as the acting  
8 captain of the rescue; correct?

9 A. Yes.

10 Q. And you asked the patient several times if he  
11 wanted to go to the hospital; correct?

12 A. I asked the patient, yes, if he wanted to go to  
13 the hospital several times.

14 Q. And he said no; right?

15 A. He was under the influence, and what he said  
16 didn't matter. I was using the refusal protocol to  
17 determine whether or not he actually could refuse, and  
18 I used that and determined that he could not refuse by  
19 the way he was answering.

20 So yes, he did say "no" multiple times, but he  
21 never had the option of refusing because he was altered  
22 and did not meet the qualifications to sign a refusal.

23 Q. He was under the influence, and that's why the  
24 State Police were doing a criminal investigation;  
25 correct?

1       A.    At that time the State Police had said nothing  
2       about the incident or whether he was under  
3       investigation. All I knew at that time, all I was  
4       trying to determine if he could sign a refusal was that  
5       he crashed his car into the barrier, which I had seen  
6       when I walked by it. Otherwise, I had no other  
7       information to go on.

8       Q.    Okay. But when you arrived, the State Police were  
9       there; correct?

10      A.    They're always on scene on highway accidents when  
11      I arrive.

12      Q.    Okay. And they were there on this day,  
13      December 14th; correct?

14      A.    Yes.

15      Q.    And you subsequently learned that the State Police  
16      had put out this individual's license plate due to a  
17      report of erratic driving; correct?

18      A.    About, I would say, a year later, maybe nine  
19      months later.

20      Q.    That's when you learned it?

21      A.    Yes.

22      Q.    And you told one of the state troopers to stand  
23      back, didn't you?

24      A.    I asked him if he could back up because he was so  
25      close that he was spitting in my face and he was

1 interfering with me assessing the patient. So yes, I  
2 asked him respectfully if he could back up.

3 Q. And he didn't; right?

4 A. He did not, no.

5 Q. Okay. Because he told you you had no jurisdiction  
6 over the State Police; correct?

7 A. No, he didn't say that to me.

8 Q. He was -- they were in the process of searching  
9 the car, also; correct?

10 A. I don't know what they were doing, no. There was  
11 a few troopers standing next to me.

12 Q. You didn't see the trooper search the car?

13 A. The car was behind me. So no, I did not see what  
14 they were doing.

15 Q. Okay. Did you see the trooper take a little  
16 plastic bag out of the car?

17 A. I did not.

18 Q. And you subsequently transported the individual to  
19 the hospital; correct?

20 A. I did.

21 Q. And what happened after you transported him to the  
22 hospital?

23 A. I don't understand your question.

24 Q. Did you just transport him to the hospital and  
25 then leave?

1 A. No. I called my chief to the hospital.

2 Q. Okay. Why did you call your chief to the  
3 hospital?

4 A. Because the trooper had been extremely rude and  
5 interfered with my attempt to assess the patient and  
6 yelled at me and verbally brandished me on scene while  
7 I was trying to assess whether or not the patient could  
8 sign a refusal.

9 Q. So you thought that the State Police actually  
10 interfered with your assessment; correct?

11 A. Absolutely.

12 Q. And subsequently the State Police complained to  
13 the City of Providence about you; right?

14 A. Yes.

15 Q. And they, in fact, complained that you were  
16 interfering with their criminal investigation; correct?

17 A. That was their complaint.

18 Q. And the charges that were preferred against you --  
19 and December 14th, 2014, that was long before you  
20 received a subpoena for this trial; correct?

21 A. The charges were not preferred. The charges were  
22 preferred on January 23rd of 2015.

23 Q. Right. We'll get to that, Lieutenant. But the  
24 incident itself was December 14th, 2014; correct?

25 A. Yes.

1 Q. And then subsequent to that, the State Police make  
2 a complaint against you to Providence; correct?

3 A. The State Police showed up at my station the next  
4 day trying to discuss what they thought that they --

5 Q. Well, the State Police, as a matter of fact, made  
6 a complaint to the City of Providence about you;  
7 correct?

8 A. Yes.

9 Q. And based upon that complaint, the acting chief  
10 preferred charges against you; correct?

11 A. Based solely on that complaint, yes.

12 Q. Right. Based on the complaint of the State  
13 Police; right?

14 A. Yes.

15 Q. And there was more than one trooper involved;  
16 right?

17 A. Yes.

18 Q. And those charges were, you're correct,  
19 January 23rd, 2015; correct?

20 A. Yes.

21 Q. And that was also long before there were any  
22 subpoenas issued for this trial; right?

23 A. Yes.

24 Q. Now, then there -- pursuant to the rules and  
25 regulations, there was a trial that was set to be held



1 in front of the acting chief; correct?

2 A. Yes.

3 Q. And you had a lawyer? You were allowed to have  
4 your own lawyer; right?

5 A. Yes.

6 Q. And you did have your lawyer; right?

7 A. I had a lawyer, yes.

8 Q. And you were allowed -- your lawyer was allowed to  
9 cross-examine witnesses, including the troopers;  
10 correct?

11 A. The witnesses that were allowed to attend. We  
12 requested a number of witnesses, and they were not  
13 allowed to attend.

14 Q. Okay. But the witnesses who did attend, you were  
15 allowed -- your lawyer was allowed to cross-examine;  
16 right?

17 A. Yes.

18 Q. And at that hearing it was alleged, was it not,  
19 that you had told the patient if he went to the  
20 hospital, he'd have less a chance of being arrested;  
21 correct?

22 A. That was what was alleged, yes.

23 Q. And that the State Police was basing that on what  
24 the patient told them in his statement; correct?

25 A. Based upon -- yes.

1 Q. And you had the hearing, and then there was a  
2 decision; correct?

3 A. Yes. A decision was made last week, over a year  
4 and a half later.

5 Q. Well, the decision was made on -- the decision was  
6 dated March 16th, 2016; correct?

7 A. I don't know. I received word that there was a  
8 decision made last week.

9 Q. All right. And then you were served with the  
10 decision. When were you served with the decision?

11 A. March 30th. Yes.

12 Q. March 30th you were served with it?

13 A. Yes.

14 MR. McHUGH: Your Honor, may I have this  
15 identified for identification, marked for  
16 identification as Exhibit P.

17 THE COURT: Sure.

18 MR. McHUGH: Please.

19 THE CLERK: Do you want to use ELM0?

20 MR. McHUGH: I will.

21 THE CLERK: Oh, you don't have it marked.

22 MR. McHUGH: No, I don't. This just came up.

23 MR. MARTIN: Your Honor, when the exhibit is  
24 marked, the Plaintiff requests sidebar.

25 THE COURT: Okay. Well, let's get it

1 identified.

2 MR. McHUGH: So this will be for the witness  
3 only, then.

4 (Defendant's Exhibit P marked for ID.)

5 Q. Lieutenant, if you look at the screen in front of  
6 you, I'm going to put this document on it, and I want  
7 you to read it; and as you read what's on the screen  
8 and finish reading it, could you tell me when you're  
9 finished so I can turn to the next page, please.

10 THE COURT: Lieutenant, do you recognize the  
11 document that's on the screen before you?

12 THE WITNESS: Yes.

13 THE COURT: What is it? In general, what is it?

14 THE WITNESS: That's the opinion of the chief  
15 that they gave me last week.

16 THE COURT: That you received last week?

17 THE WITNESS: Yes, sir.

18 THE COURT: Okay. Is there an objection to its  
19 introduction, Mr. Martin?

20 MR. MARTIN: Objection.

21 THE COURT: I'll hear you at sidebar.

22 (Bench conference held on the record.)

23 THE COURT: What's the objection, John?

24 MR. MARTIN: Your Honor, this is a 403  
25 objection. There's never a neutral hearing. There's

1 no neutral finding. There's no judicial finding.  
2 These are findings of fact made after an administrative  
3 proceeding of a chief who is also an adverse party in  
4 this case.

5 Second of all, it's hearsay. It's signed by  
6 Commissioner Pare, and it includes his summary of  
7 statements from witnesses. So it's hearsay within  
8 hearsay.

9 MR. McHUGH: This is the order of suspension.  
10 Now, there was a witness on the stand, their witness,  
11 not mine, who brought this up; and her allegations are  
12 that she was suspended because she was a part of this  
13 case, a witness in this case.

14 This is the order of suspension and what the  
15 suspension was based upon. She's already testified to  
16 much of this.

17 As far as hearsay, it's a government record, a  
18 business record; but I think that the Defendants ought  
19 to be able to put this in through evidence so that the  
20 jury could see that this rebuts what she says, that she  
21 was only suspended and reprimanded because she's a  
22 witness in this case.

23 THE COURT: I'm going to overrule the objection.  
24 The matters you brought up, John, you can bring up  
25 during redirect.

1 MR. McHUGH: Thank you, your Honor.

2 (End of bench conference.)

3 THE COURT: Mr. McHugh, do you offer it as a  
4 full exhibit?

5 MR. McHUGH: I do, your Honor.

6 THE COURT: Defendant's Exhibit P is admitted as  
7 a full exhibit and can be shown to the jury.

8 (Defendant's Exhibit P admitted in full.)

9 MR. McHUGH: Do you want me to hand it to the  
10 jury, your Honor, or have them look at it on the ELM0?

11 THE COURT: I don't think handing it to them  
12 would do them much good unless we sat here for an hour  
13 while each one read it. So why don't you make use of  
14 the technology as best you can.

15 Mr. McHugh, it might make more sense if you  
16 posed -- highlighted parts that you wanted to draw to  
17 the witness's attention, and that way the jury can --  
18 they'll have the full document with them, but it seems  
19 a rather long document for all of us to sit here while  
20 they read it.

21 Q. Lieutenant, can you look at the document in front  
22 of you on the screen, please. And I want to draw your  
23 attention to the fourth paragraph where it says "the  
24 charges allege." Do you see that?

25 A. Yes.

1 Q. And if you go down to the third sentence, "While  
2 on the scene, there was a verbal altercation between  
3 Acting Rescue Captain Danielle Masse and a member of  
4 the Rhode Island State Police." You do agree with  
5 that; correct?

6 A. No, I don't.

7 Q. You don't agree with that?

8 A. No. I don't agree with the wording of this  
9 document at all.

10 Q. Well, you don't agree that there was a verbal  
11 altercation between you and a trooper?

12 A. No, I would not describe my statement to the  
13 trooper as a verbal altercation.

14 Q. Okay. Would you describe his statement to you as  
15 a verbal altercation?

16 A. I would describe his communication to me as  
17 abusive and condescending.

18 Q. All right. And you see here it says, "It was  
19 reported to the chief of the fire department that  
20 Acting Rescue Captain Masse repeatedly asked the  
21 operator of the vehicle to go with her to the hospital  
22 for treatment." You agree with that?

23 A. No.

24 Q. You asked the patient more than once, didn't you?

25 A. I asked him if he felt he needed to go to the

1 hospital and what his injuries were.

2 Q. Okay. You asked him more than once; correct?

3 A. Yes.

4 Q. All right. And then the -- did the trooper, as it  
5 says here, approach you for information as to the  
6 questions that you were asking him?

7 A. No.

8 Q. All right.

9 A. I asked the patient multiple times about needing  
10 to go to the hospital and what his injuries were  
11 because he wasn't responding appropriately and I was  
12 having trouble getting the information from him and I  
13 was trying to ascertain whether or not the patient was  
14 competent to sign a refusal.

15 The trooper came up to me and started yelling at  
16 me, asking me how long it takes to sign a refusal,  
17 hurry up, let's get this done, sign the refusal and  
18 let's go in a very demeaning, derogatory tone while he  
19 was close enough to spit in my face.

20 Q. Well, that's a verbal altercation; correct?

21 A. No, because I did not interact with the trooper.  
22 It was a one-way altercation. An altercation would  
23 mean that there was a back-and-forth.

24 Q. Okay. If you look at page 2, do you have that in  
25 front of you?

1 A. Yes.

2 Q. I want to direct your attention to on Sunday,  
3 December 14th, that afternoon.

4 A. Yes.

5 Q. You subsequently learned there had been a 911 call  
6 about this car operating erratically. You remember I  
7 asked you about that a few minutes ago?

8 A. This document is written out of time order. None  
9 of this information was available to me until a few  
10 months later, about, like I said, eight months later  
11 during the hearing.

12 Q. Well, I understand that, but I know -- I  
13 understand also that when you came upon the scene, the  
14 car was there, this car was there, it had crashed,  
15 correct, and there were state troopers there?

16 A. I responded to a car accident, yes. This BOLD and  
17 whatever ensued with the State Police prior to my  
18 arrival I was not aware of until months later. All I  
19 knew is I was entering an accident scene on the highway  
20 and had no other information --

21 Q. Okay.

22 A. -- about how it happened.

23 Q. Let's look at page 3. If you look at page 3, the  
24 second paragraph, the last sentence. Bertrand, he was  
25 the patient; correct?



1 A. Yes, Bertrand was the patient.

2 Q. "Bertrand eventually told the troopers in his  
3 statement and at the hospital that Masse communicated  
4 to him if he went to the hospital, he would avoid being  
5 arrested." You knew -- you learned that Bertrand told  
6 the State Police that; right?

7 A. Yes.

8 Q. Okay. And is this the part of this incident  
9 you're talking about in the first sentence in the next  
10 paragraph, "When Trooper Emerson inquired what was  
11 wrong, Masse snapped at him, ordering him to stand back  
12 so that she could do her job"?

13 A. Trooper Emerson never inquired what was wrong.

14 Q. Okay. Is that the trooper you said you asked to  
15 step back?

16 A. Yes.

17 Q. Okay. And then finally on the next page, page 4,  
18 under Charge 1, they cite violation of rules and  
19 regulation, "Members shall be governed by customary  
20 rules of good behavior." Do you see that?

21 A. Yes.

22 Q. And so on that one, the chief found the charges  
23 sustained because he found that you engaged in an  
24 unprovoked verbal altercation with the state trooper;  
25 correct?

1 A. I don't understand what your question is.

2 Q. Well, in Charge 1 -- there were two charges.

3 Charge 1, the chief sustained that charge after he  
4 heard the evidence, and he based that on the fact that  
5 he believed that you engaged in an unprovoked verbal  
6 altercation with one of those troopers?

7 A. As far as I'm aware, this paper came from your  
8 office after the people that your office sent to run  
9 this hearing, they wrote this up. And what I'm being  
10 charged with is what your office recommended I get  
11 charged with.

12 So I don't know if the chief is the one who  
13 actually determined that. Well, I know the chief  
14 didn't determine that because this paper was given to  
15 the chief with recommendations from your office.

16 Q. Well --

17 A. And that's the wording that your office chose.

18 Q. Well, the chief, Chief Mello, he's the one who  
19 held the hearing; correct?

20 A. This paperwork -- Chief Mello last week told me  
21 that this paperwork got to his hands because  
22 Commissioner Pare had taken over as acting chief of the  
23 department. And so he was sitting for the hearing, and  
24 then Commissioner Pare I guess in conjunction with your  
25 office handled this over the last year.

1 Q. Well, in any event, you received that punishment  
2 because Charge 1 was sustained; correct?

3 A. I guess that's true.

4 Q. Okay. And then if you look at Charge 2 down  
5 below, Charge 2 was sustained; correct?

6 A. Obviously, for them to file charges, they would  
7 have had to agree with what you wrote down here, yes.

8 Q. Well, I didn't write anything down here.

9 A. Well, your office. I apologize.

10 Q. And then if you look at the last page of this,  
11 what you were served with as you already testified to,  
12 I believe, this was the punishment. You were suspended  
13 without pay for 10 days. You already started that  
14 suspension; correct?

15 A. Yes.

16 Q. And you were receiving a letter of reprimand. Did  
17 you get that yet?

18 A. No. Apparently that goes in my permanent file. I  
19 don't know if I get to read that.

20 Q. Okay. And you were removed from the rescue  
21 captains' list; correct?

22 A. Yes.

23 Q. Now, at the time that --

24 THE CLERK: Thank you.

25 MR. McHUGH: Thank you.

1 Q. By the time you had received this, you had already  
2 filed your own Human Rights complaint against the city;  
3 correct?

4 A. Absolutely.

5 Q. And in that Human Rights complaint, you alleged  
6 discrimination; correct?

7 A. Yes.

8 Q. And you're represented by Mr. Martin and Mr. Braga  
9 in that complaint; correct?

10 A. I am.

11 Q. And you're here today to support the case of your  
12 friend, Lori Franchina; correct?

13 A. I'm here to support making sure that it's known  
14 how women are treated on the Providence Fire  
15 Department, yes.

16 Q. And you know that Lori Franchina is asking this  
17 jury to award her money; correct?

18 A. I don't know what the terms are of this trial.

19 Q. Okay. Well, let me ask you this. Don't you think  
20 that if Lori Franchina wins this case, it will help you  
21 win your case?

22 A. The issues in my case?

23 Q. Well, I'm asking you about your own case. If Lori  
24 Franchina wins this case, don't you think this would  
25 help you in your own case?

1       A.    I think my case speaks for itself.

2       Q.    Okay. That's fine. But I'm asking you if Lori  
3       Franchina is found on her behalf -- if a jury finds on  
4       Lori Franchina's behalf, I'm sure you think that would  
5       help your case, also.

6       A.    I'm not quite sure I understand.

7       Q.    You know what Lori Franchina's alleging; correct?

8       A.    Yes.

9       Q.    And you know what you're alleging; correct?

10      A.    Yes.

11      Q.    And they're similar; right?

12      A.    Yes.

13      Q.    And they're both against the fire department;  
14      correct?

15      A.    Yes.

16      Q.    So don't you think if Lori Franchina prevailed  
17      here with this jury that would help you prevail in your  
18      case with a jury?

19      A.    I don't think that has anything to do with why I  
20      filed my charges.

21      Q.    Well, I'm not saying that; but it has to do with  
22      why you're here today testifying, doesn't it?

23      A.    They're related, yes.

24      Q.    Okay. And you're going to ask for money for your  
25      case; correct?

1 A. I'm going to ask for the situation that's going on  
2 to be dealt with appropriately.

3 Q. And you're going to be asking for compensation;  
4 correct?

5 A. That hasn't been discussed.

6 Q. Well, aren't you going to ask for the 10 days' pay  
7 that you lost through this suspension?

8 A. I am absolutely going to ask for these to be  
9 overturned.

10 Q. Okay. And if Lori Franchina were able to get  
11 money from this jury, wouldn't that help you in your  
12 mind get money from a jury in your case?

13 A. That is not in my mind, no.

14 MR. McHUGH: All right. Thank you, Lieutenant.  
15 Nothing further.

16 Thank you, your Honor.

17 THE COURT: Thanks, Mr. McHugh. Mr. Martin.

18 MR. MARTIN: Briefly. Thank you.

19 THE COURT: Vickie, do you have Defendant's P  
20 for Mr. Martin?

21 MR. MARTIN: Thank you.

22 **REDIRECT EXAMINATION**

23 **BY MR. MARTIN:**

24 Q. Just a couple of things I wanted to clear up. As  
25 far as the process through which these charges went

1       that you just discussed with Mr. McHugh, is the process  
2       over?

3       A.     No.

4       Q.     What's the next step?

5       A.     The union has to file a grievance, which they've  
6       told me that most likely will immediately be denied;  
7       and that goes, I guess, to Commissioner Pare because  
8       he's acting as the chief of the department and  
9       Mr. McHugh's office; and after that, I can file an  
10      appeal.

11      Q.     And do you know if you were to win the appeal what  
12      you'd be entitled to?

13      A.     I don't.

14      Q.     It says that the within matter came for a hearing  
15      before Scott Mello, the acting chief of the department.  
16      Did I read that correctly?

17      A.     Yes.

18      Q.     Was there a neutral arbiter or a judge who made  
19      this decision?

20      A.     I believe the city hired Vinnie Ragosta to  
21      represent the city; and another person, I don't know  
22      his name, came from --

23      Q.     Well, sure, those are the prosecutors --

24      A.     Right.

25      Q.     -- who questioned you?

1 A. Right.

2 Q. But it says the hearing came before Scott Mello;  
3 right? And then above that it says that it's the  
4 opinion of the chief?

5 A. Right.

6 Q. Do you know who made this decision?

7 A. The acting chief of the department made the  
8 decision.

9 Q. Okay. Now, could you tell us again what your  
10 observations were that led you to believe that this  
11 individual was suffering from a head injury or was  
12 under the influence of drugs or alcohol.

13 A. He had pinpoint pupils, he had vomit down his  
14 shirt, he was very slow to respond and answer the  
15 questions, and he wasn't able to actually answer all  
16 the questions. I asked him about what was going on and  
17 his injuries.

18 There was significant damage to the vehicle that  
19 had hit the barrier. The airbags had deployed. The  
20 windshield was broken, which indicates he hit his head  
21 into the windshield.

22 Q. So we talked about -- you talked about with  
23 Mr. McHugh things that you learned about after the  
24 fact. I'd like you to take a look at the trooper's  
25 observations of Mr. Bertrand here. Do you see where it



1       says that he also noted a stain on his shirt?

2       A.    Yes.

3       Q.    But was unable to ascertain what it was?

4       A.    Yes.

5       Q.    Did you notice that he also noticed the pupils to  
6       be extremely constricted or pinned?

7       A.    Yes.

8       Q.    Did you notice that he also noticed that  
9       Mr. Bertrand's speech was severely slurred and  
10      thick-tongued?

11      A.    Yes.

12      Q.    And what's this part about the presence of knotted  
13      plastic bag ends?

14      A.    I don't know about that because while I was on  
15      scene with the patient and at the hospital, there was  
16      no -- that information came after. After I got to the  
17      hospital, then they finally did a pat-down on him and  
18      found drugs in his socks and I guess in the car.

19      Q.    And the trooper also came to the conclusion that  
20      Mr. Bertrand was under the influence of a narcotic?

21      A.    Yes.

22      Q.    Now, can you explain to us in your profession what  
23      is the protocol that you're supposed to follow in order  
24      to determine whether or not one of your patients is  
25      competent to refuse consent for medical care.

1       A.    There's an altered mental -- there's a couple of  
2       different protocols. It's an altered mental  
3       consciousness protocol and then just -- also just basic  
4       EMS. Like, the first week of EMT school teaches about  
5       consent and the rights of consent.

6               And then there's a list of criteria for signing  
7       refusals on the state form that has to be met; and one  
8       of the criteria that has to be met on the state form  
9       states, you know, that the patient is not altered by  
10      drugs or alcohol or intoxicating substances. And you  
11      have to be able to say "yes" to all those things in  
12      order to sign a refusal for the patient.

13      Q.    Was there any reason that you didn't want  
14      Mr. Bertrand to get arrested?

15      A.    No.

16      Q.    Had you ever met him before?

17      A.    No.

18      Q.    We've talked a little bit about things you learned  
19      after the fact. Is Mr. Bertrand still alive?

20      A.    No.

21      Q.    How did he die?

22      A.    He died of a drug overdose a few months later.

23      Q.    Is Lori Franchina's name mentioned anywhere in  
24      this document?

25      A.    No.

1 Q. When was the last time Lori Franchina worked at  
2 the Providence Fire Department?

3 MR. McHUGH: Objection, beyond the scope.

4 THE COURT: It's possible. I'm not sure where  
5 you're going with it, Mr. Martin. So if you can tie it  
6 to the cross-examination, I'll overrule it.

7 MR. MARTIN: Thank you. I'll ask a better  
8 question.

9 Q. You were asked some questions about how the  
10 results of this case could possibly affect your case.  
11 Do you remember answering those questions?

12 A. Yes.

13 Q. When was the last time that Lori Franchina worked  
14 for the Providence Fire Department?

15 MR. McHUGH: Same objection.

16 THE COURT: Overruled.

17 A. It's been a few years.

18 Q. Can you give us an idea of how many years?

19 A. I believe she retired a year or so ago; but she  
20 hadn't actually worked for at least a few years, at  
21 least three years, I believe.

22 Q. Are there any events that you plan on complaining  
23 about that Ms. Franchina was a witness to?

24 MR. McHUGH: Objection, beyond the scope.

25 THE COURT: Overruled.

1 Q. Are there any events you can think of that you  
2 want to complain about that happened to you to which  
3 Ms. Franchina was a witness?

4 A. I don't believe so.

5 Q. So this whole deal with the hearing and the  
6 opinion and the demotion and the discipline, did  
7 anybody explain to you why nobody did that to Sean  
8 McGarty?

9 A. No.

10 MR. McHUGH: Objection, your Honor.

11 THE COURT: Sustained.

12 Q. Do you know what these are?

13 A. Those are exam gloves.

14 Q. And when these are soiled, is there a specific way  
15 they're supposed --

16 MR. McHUGH: Objection, your Honor.

17 THE COURT: He has to finish the question.

18 Q. When these are soiled, is there a specific way  
19 that they're supposed to be taken off to protect the  
20 people around?

21 THE COURT: Mr. McHugh.

22 MR. McHUGH: Objection.

23 THE COURT: Sustained.

24 MR. MARTIN: Nothing further.

25 THE COURT: Thanks, Mr. Martin.

1 MR. McHUGH: No questions, your Honor. Thank  
2 you.

3 THE COURT: Just so we're clear, there is no  
4 recross in the trial absent some extraordinary  
5 circumstances.

6 Lieutenant Masse, you can step down, ma'am.  
7 Thank you.

8 Mr. Martin.

9 MR. MARTIN: Your Honor, the Plaintiff calls  
10 Lori Franchina.

11 **LORI FRANCHINA, PLAINTIFF'S WITNESS, SWORN**

12 THE COURT: Ms. Franchina, I think you know the  
13 drill having sat here. If you'd just remain standing,  
14 and Ms. McGuire will swear you in.

15 THE CLERK: Please state your name and spell  
16 your last name for the record.

17 THE WITNESS: Lori Ann Franchina,  
18 F-R-A-N-C-H-I-N-A.

19 **DIRECT EXAMINATION**

20 **BY MR. MARTIN:**

21 Q. Good afternoon.

22 A. Good afternoon.

23 Q. So --

24 THE COURT: Ms. Franchina, would you just bring  
25 it in a little closer. Great. And try and talk right

1 into it. I know it's uncomfortable. I understand  
2 that.

3 THE WITNESS: I think it was my voice at first.

4 THE COURT: Okay. Mr. Martin.

5 Q. So it's come to my attention that I have your  
6 place -- your birthplace of origin wrong in the opening  
7 statement. Could you please correct that for everyone.

8 A. Yes. I am from Jamestown, New York.

9 Q. I see. So you didn't grow up in Rhode Island?

10 A. No.

11 Q. When did you move here?

12 A. I moved here approximately 24 years ago.

13 Q. Tell me a little bit about growing up in  
14 Jamestown. Where did you go to school?

15 A. I went to Harvey C. Fenner Elementary School in  
16 Falconer, New York; and I then attended Falconer High  
17 School.

18 Q. Any particular interest or activities you took  
19 part in high school?

20 A. Yes. I played three sports, basketball,  
21 volleyball and softball. I was very active in my class  
22 taking part in homecoming, prom, things of that nature.

23 Q. For the basketball and volleyball, were they  
24 regulation size --

25 A. Yes. I was a guard.

1 Q. Okay. After high school, where did you go?

2 A. Eastern Connecticut State University.

3 Q. All right. And what did you study? What was your  
4 major?

5 A. I studied exercise science, applied anatomy,  
6 kinesiology.

7 Q. Can you say that a tad bit slower.

8 A. Exercise science, applied anatomy and kinesiology.  
9 I also have three minors, coaching, athletic training  
10 and secondary ed. Actually, that's a major. I'm  
11 sorry.

12 Q. What is the exercise science/kinesiology?

13 A. It's a physical education degree with a secondary  
14 major in education, secondary ed.

15 Q. Are there -- does that include medical-related  
16 course work, anatomy, things of that nature?

17 A. Extensive anatomy, kinesiology, motor movement  
18 analysis, adaptive physical education.

19 Q. Did you play any sports in college?

20 A. I did.

21 Q. What did you play?

22 A. Basketball and softball.

23 Q. Tell us about your softball experience.

24 A. My softball experience started when I was six.

25 Q. Tell us about the Eastern Connecticut State

1 University softball.

2 A. I played two sports there, but softball was my  
3 predominant sport. I loved it. I played four years.  
4 And in 1992 I suffered 34 facial fractures by breaks,  
5 and I was an All-American. I continued to play two  
6 sports.

7 Q. You had your face broken?

8 A. Yeah.

9 Q. I'm sorry. Can you explain the -- that was not 34  
10 separate incidents.

11 A. No.

12 Q. That was -- can you explain the 34 fractures.

13 A. Sure. I was in a practice setting, and a team  
14 member let go of a bat. It flew approximately 15 feet,  
15 striking me predominantly in my nose and my left side  
16 of my face. And I had a LeFort fracture, which my  
17 upper jaw was completely movable. I lost several  
18 teeth, and I had five major breaks.

19 Q. So how long did it take before you got back to the  
20 field?

21 A. Seven months.

22 Q. And what were the -- tell us about the results for  
23 the team during the --

24 A. My team had gone on to a national tournament in  
25 Pella, Iowa, and took third, I believe, that year.



1 Q. And the next year?

2 A. We took second.

3 Q. Now, after you graduated, what did you do for  
4 work? Oh, wait. What about the Olympics? Tell us  
5 about the Olympics.

6 A. In 1994 I tried out -- well, I was actually  
7 recruited. I had gotten a letter to participate in the  
8 open trials, and that was due to my playing experience  
9 for the Lady Shamrocks out of Tonawanda, New York.

10 I played for a former Celtic at the time in the  
11 '60s, Larry O'Connor, and we played against a more  
12 familiar team in this area in Connecticut, the Robusto  
13 Breakouts. So through that experience, I was given an  
14 opportunity to try out for the 1994 open trials, and  
15 that was held at Springfield College.

16 Q. And before we transition to your professional  
17 career, tell me about your family. Who did you live  
18 with when you grew up?

19 A. I lived with my mother, Terry Lee Franchina;  
20 Anthony Franchina, my father; my brother, Anthony  
21 Franchina, Jr.; and Amy Lynn Erickson, formerly  
22 Franchina.

23 Q. What does your dad do for work?

24 A. My dad early on was a construction worker and  
25 eventually proceeded to continue my grandfather's trade

1 as a cobbler.

2 Q. How about mom?

3 A. Mom was a nurse of 42 years.

4 Q. Did you have any jobs throughout school and  
5 college?

6 A. Uh-huh. My first job was around the age of 12  
7 with my brother, a paper route. We had a double route  
8 because, well, my brother always wanted to do more than  
9 the next guy. So with two of us, we could have more  
10 papers making more money.

11 Q. Any other jobs in high school or college?

12 A. Yes. I worked for my father. Both my brother and  
13 I would shine shoes and help glue and do different  
14 things that was, we call it, the family trade, he, too,  
15 being a cobbler. So we would do that, get paid a  
16 little bit for it here and there.

17 But I also worked for Parks and Recreations in  
18 town. I was a mentor to students, student athletes,  
19 did arts and crafts and, you know, sporting events, you  
20 know, activities. I was a lifeguard for a pool in one  
21 of the nicer areas of town.

22 Q. What is your sexual orientation?

23 A. I am a lesbian.

24 Q. When -- does your family know that?

25 A. Oh, yes.

1 Q. When did you tell your family?

2 A. I think growing up my family always knew my sexual  
3 orientation differed from my brother and my sister. It  
4 was really discussed my freshman year.

5 I had returned home for the summer. I was  
6 painting my mother's pantry, and she came in and said,  
7 I have to ask you a question. I said, Well, ask the  
8 question. And she says, Are you? And I said, Am I  
9 what?

10 But being a mom, you know, she just wanted to  
11 hear, you know, that I had grown up and was making  
12 decisions on my own, living away from home 10 hours.  
13 My school was 10 hours away. So I then prompted to say  
14 that I was gay.

15 Q. And how did your family receive that?

16 A. My brother said, I thought so. My sister said, I  
17 thought so. My mom was -- she was good. I mean, she  
18 was good to the extent that she expressed her concerns,  
19 how I might be treated in society even back in the  
20 '90s, I guess.

21 Q. How about dad?

22 A. Dad, you know, I think dad is the guy that always,  
23 you know, he walked my sister down the aisle with such  
24 pride. I don't think he had the foresight to see the  
25 way society has come today and how far we are

1 progressing.

2 So he was a little reluctant to celebrate; but,  
3 I mean, to accept me as a daughter, there was no  
4 question. He accepted me.

5 Q. So let me get back to your transition after  
6 college. What was your first job?

7 A. Let's see. Well, before I graduated college I was  
8 employed by Windham Tech Regional High School. Because  
9 of my facial injury, I had to extend my academic career  
10 because I chose to play one more year athletically to  
11 get my four years in at the university.

12 So in doing so, I had to extend my academics by  
13 both a fall and a spring semester. So, therefore, in  
14 my winter phase of academics, I didn't have anything to  
15 do. So I applied for the volunteer coaching position  
16 for basketball under Raymond Elliot. He became a  
17 strong mentor for coaching for me. And also I was the  
18 head volleyball coach at the high school. That was in  
19 my senior year of college.

20 Q. And then after college?

21 A. After college, I always worked in the summers. I  
22 worked at Lake Compounce, and then after college my  
23 first employment opportunity was substitute teaching  
24 and working for Natural Bodies Fitness Center.

25 So I would open up a gym sometimes as early as

1 4:30 in the morning, get a little workout in possibly  
2 and shoot off to substitute teach in Hartford,  
3 Connecticut. And then after school, I would return  
4 home; and if it was in the fall of that year, I coached  
5 at Assumption College.

6 So I would open a gym at 4:30, teach, and then  
7 I'd literally hop on 395 and go to Assumption College  
8 and coach until five, six, seven o'clock at night.

9 Q. And for those of us who are not familiar with the  
10 Paris of central Massachusetts, could you tell everyone  
11 where Assumption College is.

12 A. You continue up 395 to I90 to 290, and you then go  
13 through the City of Worcester to the upper right-hand  
14 portion of the city of Worcester, which has 10 colleges  
15 in it. It's a big city.

16 Q. And then when did you first feel attracted to or  
17 interested in emergency medicine?

18 A. That actually came very early. Prior -- I think  
19 it was my sophomore year in college. I was home for  
20 the summer, and I would go and see my mother for lunch  
21 at the hospital.

22 And on my way there one day, I actually saw a  
23 seven-year-old little girl get hit by a car. I was the  
24 car behind it. And, again, we always say we -- you  
25 know, there's some that run to the fire and there's

1 some that run away.

2 I had also taken First Aid and CPR in college, I  
3 already had that under my belt, and lifeguard training  
4 which I had done in the summers prior to college; and I  
5 helped in that scenario prior to a rescue coming.

6 Q. And when was your -- what was your first job  
7 involving emergency medical response?

8 A. I worked for -- well, I volunteered as a volunteer  
9 firefighter in the Town of Scituate, Rhode Island, and  
10 I was at Station 20 there. I worked Mondays and  
11 Wednesday nights, volunteered 6A to 6P. Excuse me, 6P  
12 to 6A.

13 Q. When did you volunteer?

14 A. That was in the years -- for two-and-a-half years  
15 when I lived in the Town of Scituate, and that was -- I  
16 graduated '95, so that would have been '97, '98 into  
17 '99.

18 Q. And then what did you do after '99?

19 A. Employment-wise or EMS?

20 Q. Both, please.

21 A. Okay. At that time -- well, prior to that I was a  
22 college coach.

23 Q. Tell us about that.

24 A. Well, once I left Assumption College in 1995, I  
25 went on to coach and moved to the State of Rhode

1 Island. I was 25 years old, and I was coaching  
2 Division I softball at the University of Rhode Island  
3 for Melissa Jarrell.

4 Q. How long did that last?

5 A. That was about a year and a half. It's about four  
6 semesters.

7 Q. Did you continue to acquire any more experience in  
8 emergency medicine?

9 A. Yes.

10 Q. How so?

11 A. I took my EMT-Basic course shortly after that;  
12 and I was also working then at Providence College as  
13 an assistant softball coach, and I was licensed as an  
14 EMT-Basic working for Universal Ambulance on  
15 Douglas Ave. in Providence, Rhode Island.

16 Q. What did you do for Universal Ambulance?

17 A. I was an EMT-Basic.

18 Q. And for -- give me the timeline starting and  
19 ending when you were working for Universal.

20 A. Universal Ambulance was approximately around 1998  
21 to 2001 and a half, like half of 2001.

22 Q. Over the course of that time, did you earn any  
23 professional certificates or go through any trainings  
24 related to emergency medicine?

25 A. I had actually started my EMT-Cardiac at that

1 time, it's a secondary license, and intubation. I was  
2 certified in intubation.

3 Q. So now you've taken us up, I think you said, to  
4 around 2000 to 2002. What was your next job?

5 A. I actually worked -- well, I worked at a couple  
6 gyms, too, during that time period. So I don't know if  
7 I was still working at Fitness -- excuse me, Suburban  
8 Fitness in Scituate.

9 So then after that my transition went away from  
10 fitness and really honed in and applied to the  
11 Providence Fire Department.

12 Q. Okay. When did you apply?

13 A. It was the summer before the -- actually, that was  
14 in -- I think that sitting was in 2000. I was still  
15 working for Universal Ambulance at the time.

16 Q. When was your academy?

17 A. My academy was the -- there was two academies  
18 drawn out of one test. So 2,300 people sat for a test.  
19 Eight hundred people, men and women, were chosen for  
20 the agility. Out of 800, 80 passed the fitness test.  
21 My score was very high amongst the men with the  
22 agility. It's a time test, has to be completed in  
23 under six minutes. I was 4:16.

24 Q. So when you say it was very high among the men,  
25 what do you mean?



1 A. My score compared with men taking that agility  
2 test.

3 Q. Oh, they publish the scores?

4 A. No, they told us the times.

5 Q. So first there's a written test, you said, of  
6 2,300?

7 A. Uh-huh.

8 Q. Yes?

9 A. Yes. I'm sorry. Yes.

10 Q. And 800 were selected for the agility test?

11 A. Correct.

12 Q. And then 80 were selected for the academy?

13 A. Correct.

14 Q. When did the academy start?

15 A. I was chosen in the second portion of that  
16 academy.

17 Q. What does that mean?

18 A. There was 45 selected for the academy, and that  
19 was the 45th academy, and that academy ran one year  
20 prior to mine. Mine started -- that started in March  
21 of '91 for them and March 18th, I believe, in 1992 for  
22 us. Excuse me, 2002. Whoa. I would have been really  
23 young. Sorry.

24 Q. So what's the academy like? Do you live there?  
25 Do you commute?

1       A.     It is a five-day-a-week academy. At the training  
2 academy, you have to arrive -- as they say, on time is  
3 late. So you have to arrive early and be prepared.

4             It's a paramilitant organization. We are the  
5 second oldest fire department in the country. We learn  
6 our history, it's extensive, from rerouting the rivers  
7 here in Providence to the Bucket Brigade.

8             So we come in early, and we stay until 5:00  
9 usually five days a week. We are paid minimum wage for  
10 that time period.

11       Q.     Where is the academy located?

12       A.     I'm not sure of the exact address, but it's at the  
13 Reservoir Ave. firehouse.

14       Q.     What's the first oldest fire department?

15       A.     Cincinnati.

16       Q.     So what types of things did you learn there?

17       A.     We learned Firefighter 1001, Firefighter 1002. If  
18 you're not already EMT-Basic certified, you receive  
19 your EMT-Basic certification in the course.

20             I, on the other hand, had my EMT-Cardiac  
21 already, so I became like a student helper. There was  
22 about four of us that already had our cardiacs, so we  
23 could aid our, you know, our group.

24             We all want to get through it together. We all  
25 want to pass, and some -- there were some that

1 struggled because the EMT-Basic is a very difficult  
2 course, a lot to learn in a very short amount of time.

3 Q. Is there some type of test or certification that  
4 happens at the end that is required before being  
5 employed by the department?

6 A. Yes, absolutely. We have to take Firefighter 1001  
7 exams, which are national, the NFPA standards.  
8 Everybody is certified across the country.  
9 Firefighter 1001, Firefighter 1002.

10 You have to pass your national certification for  
11 EMT-Basic. I already had my cardiac at the time. We  
12 are high-angle certified. We rappel from eight  
13 stories. That's where my class jumped from.

14 Q. High-angle certified?

15 A. Yup, ropes. We have to be able to rappel off the  
16 side of a building. We also have to -- I believe, and  
17 Captain LaRoche can testify to this, but I believe  
18 we're the only one that can -- we use pompier ladders  
19 still for our training purposes only.

20 Q. You use a what?

21 A. A pompier ladder. It's a single-rung ladder with  
22 a loose neck hook that goes through a window, catches  
23 the edge of the windowsill, and you free-climb one  
24 story, and you can lock off.

25 And the theory is you pass another ladder up the

1 side of the building. You then have to manipulate it,  
2 get it into a window, unharness, climb, free-climb  
3 scaling the side of the building. It's called a  
4 scaling ladder, pompier.

5 Q. Huh.

6 A. I thought it was fun.

7 Q. You had to do that?

8 A. Yes.

9 Q. So there's a written component and a physical  
10 component?

11 A. Absolutely.

12 Q. Of the 80 who entered your academy, do you know  
13 how many eventually entered the department?

14 A. No. We had several that failed.

15 Q. How did you get along with everybody in the  
16 academy?

17 A. I got along great. I mean, I had a great time.

18 Q. What do you mean you had a great time?

19 A. I enjoyed everything I learned. I took it in like  
20 a sponge. I wrote a lot of things down. I had study  
21 groups at my house. Guys and girls would come. There  
22 was two other females in my academy. They would attend  
23 my house. I lived alone at the time. I had a pretty  
24 big house. My dogs were nice to get along with.

25 Q. Who were the two other girls in your academy?

1       A.    Andrea Stuckus and Heidi Davis. Her name now is  
2       Heidi Kennedy.

3       Q.    What was your relationship like with Andrea  
4       Stuckus during the academy?

5       A.    Excellent.

6       Q.    Was it purely platonic?

7       A.    No.

8       Q.    Any problems with Andrea after the academy?

9       A.    I think because of our relationship in the academy  
10      she chose to distance herself and create more of a, you  
11      know, environment that excluded me.

12      Q.    And you mentioned that in your study group and in  
13      your social group there were also males. Did you have  
14      any male friends while you were in the academy?

15      A.    Absolutely.

16      Q.    Like who?

17      A.    Ethan McCauley, Brian Belhumeur, Danny Imarone,  
18      Stephen Whalen.

19      Q.    Were you here when Attorney McHugh on behalf of  
20      the city did his opening statement?

21      A.    Yes.

22      Q.    Did you hear about complaints that you had made  
23      during the academy?

24      A.    Yes.

25      Q.    Could you tell us about those.

1       A.     One in particular caught me off guard. The  
2       women -- there was three women in our academy. The  
3       rest were men. And during housekeeping, women are --  
4       we have four platoons similar to on the job. We have  
5       an A, B and C and D Group, and that was the same in the  
6       academy. I was part of A Group. And so each group,  
7       you know, academy group, was assigned a specific area  
8       of the building to clean.

9               So from 0800 hours to 0900 hours, we were  
10      required to, you know, polish brass, clean the urinals,  
11      clean the facilities, mop floors, dust, anything the  
12      chief wanted taken out garbage-wise or anything that,  
13      you know, they can have us do, we did. We cleaned the  
14      apparatus floor. So there was a lot of -- tools.

15             You know, we learned how to prepare for our  
16      environment that we were entering, to prepare to go  
17      into the stations; and, you know, if a guy or a girl  
18      had been doing it for 18 to 20 years, well, you wanted  
19      to be comparable.

20             So in our training academy, I mean, it might  
21      sound silly, but we had to learn how to do  
22      housekeeping, you know. So -- oh, on that incident.  
23      I'm sorry.

24      Q.     That's fine. So you're referring to training  
25      regarding the -- taking care of the latrine?

1       A.     So we were in there that day. In particular, my  
2       group had been assigned the upstairs; and that included  
3       our classroom, another back storage room, two offices  
4       and a bunk room that we would eventually be using for  
5       overnights and working, you know, hands-on, on-the-job  
6       training and also the second floor bathroom that was  
7       specifically marked men; but when a woman was assigned  
8       to clean it, I felt, you know, I could enter that and  
9       do my job.

10           And at the time that I was cleaning a toilet, I  
11       heard urinating right next to me. And I said, Whoa,  
12       guys. First, I don't believe we complained. I believe  
13       that we addressed it. I'm not really sure how it went,  
14       but I made it aware that we can't do that.

15           You know, I was 30 years old. I had several  
16       jobs. I was already a Division I coach for six years.  
17       I had been in the field of service, you know; and maybe  
18       somebody younger than me, a male that wasn't, you know,  
19       with his head on straight up to that, you know, up to,  
20       you know, social acceptances, I felt needed to just be  
21       told, Look, you can't do this. And, you know, it was  
22       brought right up the chain.

23       Q.     And was it taken care of after that?

24       A.     Yeah, absolutely. They asked us if we had any  
25       problems, if I felt like I was sexually harassed in any

1 way, and I said no. I just felt like maybe it just  
2 needed to be addressed so that we all could move on and  
3 get over it.

4 Q. Does that have any part with the claims that  
5 you're bringing here in this lawsuit?

6 A. No.

7 Q. Were there any other complaints that you made  
8 about how you were treated during the academy?

9 A. Not that I'm aware of, unless you direct it. I'm  
10 not aware.

11 Q. Do you recall having any problems or anything that  
12 you were unhappy with dealing with other people in the  
13 academy?

14 A. No. Like I said, I took a lot of notes, and  
15 several of the men noticed that, and we started study  
16 groups where some of them had children and because I  
17 didn't have children, they would come to my house. It  
18 was quiet. We could -- you know, I had a big table  
19 down in my basement. It was actually a pool table, and  
20 we could throw all our books on it and just kind of get  
21 everything out there and start -- you know, we did a  
22 lot of brainstorming, a lot of, you know, questions,  
23 answers kind of thing so that we would -- it was a very  
24 physical job.

25 Q. So your graduation must have been exciting.



1 A. Yes.

2 Q. Tell us about that.

3 A. I graduated tenth overall. I felt super proud.  
4 My brother and my father are cobblers. My mom's a  
5 nurse. My sister's an accountant. I have one cousin  
6 that's a firefighter in Jamestown.

7 And I felt like I hit the lottery, that I -- I  
8 mean, I had a job with a pension. I had a job doing  
9 what I loved, EMS. And, you know, in the training  
10 academy I was paired up with a training number one,  
11 Brian Belhumeur, just to go back a little bit to give  
12 you an idea of my excitement; but they changed the  
13 training trailer on us to try and kind of -- he was the  
14 same size as me, and I just challenged myself. If he  
15 led the way, I was going in any burning building or  
16 anything to try and just stay up with him and, you  
17 know, just learn. It was so exciting.

18 So when we graduated, there was a corps of us  
19 that really had comradery. We enjoyed ourselves. We  
20 -- I don't know. I was treated well. I didn't have  
21 any complaints.

22 Q. Where was your first assignment when you  
23 transitioned from the academy to the department?

24 A. Ladder 1, LaSalle Square.

25 Q. Ladder 1 at LaSalle Square?

1 A. Yes.

2 Q. What was your job?

3 A. I was a ladderman or ladderwoman.

4 Q. Is that what it's called, a ladderman?

5 A. Yeah. I was on the ladder. That was my truck.

6 Q. So what does a ladderman do?

7 A. Well, we do forceful entry. We attack the roof.  
8 We ventilate. You know, we use K12 saws. We do  
9 extrication of -- Jaws of Life. We're called to car  
10 accidents.

11 If you're on a, you know, a truck with a deck  
12 gun, I mean, you could be preserving, you know,  
13 exterior. Just like the other night in Providence, we  
14 had a huge fire and, you know, there's a lot of ladder  
15 trucks doing exterior exposure, you know, preventing  
16 them from, you know, igniting by applying water to  
17 them. Things of that nature.

18 Q. Did you personally fight any fires?

19 A. In the academy, I was in two fires. And, yeah, my  
20 first week on the job, I had a dryer fire, a  
21 laundromat. It wasn't one dryer. It's a lot of  
22 dryers. And, yeah, I was on that fire.

23 Q. How long were you a ladderman at the LaSalle  
24 station?

25 A. One week.

1 Q. One week?

2 A. Yup.

3 Q. And then where did you go?

4 A. I was for one cycle -- I was in transition  
5 because, coming out of the academy, I had already had  
6 my EMT-Cardiac. There was a lot of availability on the  
7 rescues.

8 So, in turn, I eventually just was waiting for  
9 my position to open up. Another female had gotten --  
10 was being transferred off a rescue, in fact, Engine 3;  
11 and I was waiting for that spot to open up for me for  
12 my assignment coming out of the academy, which was  
13 Rescue 3, A Group.

14 Q. When did you start at Rescue 3?

15 A. Second week -- third cycle on the job.

16 Q. So where was your station?

17 A. Branch Avenue, 10 Branch Ave.

18 Q. Can you explain to the jury what we mean when we  
19 say "your station."

20 A. I think everybody calls it their station when  
21 they're assigned there.

22 Q. Being assigned to a station, what does that mean?

23 A. You're assigned to a station long term. It's not  
24 temporary in nature. Paperwork comes out from the  
25 chief of the department assigning you specifically that

1 house and the vehicle. At Branch Avenue, we had a  
2 Battalion 3, Engine 2, Ladder 7 and Rescue 3.

3 Q. And those are all different vehicles?

4 A. Correct.

5 Q. How long were you at Branch Ave.? Let me ask you  
6 a little better question. What was the approximate  
7 day, like month and year, when you started at Branch  
8 Ave.?

9 A. It would have been third cycle. I graduated  
10 September, I believe, 22nd of 2002. So third cycle,  
11 you're looking at about -- it's four days on, four days  
12 off. You do the math.

13 Q. Okay.

14 A. I'm not sure. It was the third cycle.

15 Q. But was that still in 2002?

16 A. Oh, yeah. Yeah.

17 Q. What does the third cycle mean?

18 A. You have a cycle on, four days on, and then you  
19 have what they call your 96 hours off and then your  
20 next cycle. So it's just how you, you know, see your  
21 time, I guess.

22 Q. So fall/winter 2002 you started at Branch Ave.?

23 A. Uh-huh. Correct.

24 Q. As an EMT 3?

25 A. I was an EMT-Cardiac, and I was assigned the

1 chauffeur position of Rescue 3.

2 Q. So tell us what an EMT-Cardiac is.

3 A. I am licensed through the State of Rhode Island as  
4 an EMT-Cardiac with certification in intubation. I can  
5 start IVs. I'm one level below paramedic. And through  
6 Med Control, we can do paramedic procedures through Med  
7 Control.

8 Q. What's a chauffeur?

9 A. A chauffeur in the Providence Fire Department is  
10 someone that is designated to drive a vehicle. For  
11 rescues, you get a permanent chauffeur position for six  
12 months, typically, at a time; but you can be also  
13 detailed into a vehicle to be a chauffeur.

14 And usually on the engines and the ladders, the  
15 men and women do a rotation to be a chauffeur because  
16 that requires those individuals to actually drive the  
17 truck and be the pump operator if they're called to a  
18 fire or, on ladder, you're the driver of the vehicle.

19 Q. So how did you like the job?

20 A. I loved it.

21 Q. Why?

22 A. I was doing everything I wanted to do. I was  
23 helping people. My mother was a nurse of 42 years, and  
24 she would always tell us stories at the dinner table of  
25 how she helped people, sometimes in the time of need;

1 and sometimes she said that, you know, true compassion  
2 in those moments, it could just be holding their hand  
3 in their last few minutes, to just, you know, washing  
4 their hair and taking care of them while their family  
5 is not around.

6 So I saw it as caretaking. I saw it as a strong  
7 job. I saw it as something physical. I always liked  
8 being outside, more so than an inside job. You know,  
9 it was just wonderful. I was everything I wanted to be  
10 doing.

11 Q. How about your co-workers, how did you like them?

12 A. Good. Yeah. In 2002, after 9/11, our pipes and  
13 drums from New England was honored by leading the 9/11  
14 parade.

15 Our New England Pipes and Drums got to march  
16 first, even before the New York City firefighters. I  
17 mean, we're the second oldest fire department in the  
18 country. I mean, we were pretty cool.

19 And to have that honor bestowed upon us, we all  
20 boarded trains and headed to New York for the 9/11  
21 memorial. We all got -- well, I don't know about  
22 everybody, but Providence got tickets to enter Madison  
23 Square Garden for the memorial. I marched with, you  
24 know, Chris Lisi, Chris Wagner, Ronnie Lefebvre, Chief  
25 Pare, which is now the Attleboro -- I believe he's

1 still at Attleboro Fire Department in Massachusetts.

2 He was one of our chiefs. He was my Battalion 3  
3 chief. We actually rode the train together with all  
4 the guys. And they took care of me, and they kept me  
5 under their wing. They didn't let me -- you know, I'm  
6 in a big city. I'm a young kid and a female amongst a  
7 lot of drinking and carrying on, and they protected me.

8 They took me -- like I said, they took me under  
9 their wing, kept an eye on me. And then we all stayed  
10 together in a hotel room, a lot more than should have  
11 been, I think, by code. I'm sorry.

12 Q. That's fine. And 2003 through 2006, how was the  
13 progression of your career or how did you enjoy your  
14 work environment during those years?

15 A. Those years were difficult because Chief Michael  
16 Dillon would call my -- I had soon gone over to North  
17 Main Street fire station. I was assigned there on  
18 Rescue 5 under Captain David Raymond. He was a senior  
19 captain, and I had gone over there to become his  
20 chauffeur. And with a year on the job, I was asked to  
21 go in charge of a rescue, and I refused.

22 Q. Why did you refuse?

23 A. I'm a new guy, you know. I understand the  
24 history. I mean, you want to fit in. Even as a guy,  
25 to climb rank that quickly just -- unless your father

1 was on the job, I wouldn't suggest it, nor did I.

2 And I sent letters to Chief Dillon, and I had my  
3 captain, David Raymond, verbally for six months try to  
4 keep him at bay and not force me in charge.

5 Q. What do you mean forced to be in charge? What was  
6 all the pressure?

7 A. Well, you know, at that time I'm 31 years old. I  
8 have great leadership skills. I had coached softball  
9 for years at the Division I level. I was competitive  
10 in nature but yet, you know, I liked rules. I liked  
11 standards, policies. I understood them, I read them,  
12 applied them, you know, as a technician.

13 But as a technician, I was just doing my job,  
14 and I was aiding a captain at the time. It felt  
15 normal. It felt like what I needed to do. Being  
16 forced in charge meant that there's a -- I don't know  
17 if it's in the first part of that rules and  
18 regulations, but it says for the good of the  
19 department, the chief of the department may make -- may  
20 move manpower as he sees fit. That's not a quote, but  
21 it's the tone of it.

22 Q. I see. So you said that they were difficult, and  
23 then I interrupted you. Could you explain to us what  
24 you meant that they were difficult.

25 A. What was difficult?



1 Q. I thought that you said that those years were  
2 difficult.

3 A. Oh, difficult because I had to continuously  
4 request that I don't go in charge.

5 Q. Okay. For how long did you continuously request  
6 that you not be put in charge? When you say "put in  
7 charge," does that mean a promotion to --

8 A. Well, I was acting as an officer in that  
9 timeframe. So if a call-back came in for an officer  
10 position, I could take that because with -- anyone on  
11 the job one year can be in charge of an engine, a  
12 ladder or a rescue.

13 So they only have to have a year experience; and  
14 if they are the senior person on that vehicle, they can  
15 be bumped up in charge.

16 That was happening periodically for me already.  
17 And through some situations, I found it to be  
18 uncomfortable and, you know, just very tough to, you  
19 know, get things done.

20 Guys with 18 years on the job and been in  
21 rescue, one in particular, you know, even said to me,  
22 you know, I'll never take an order from you. I had a  
23 year and a half on the job. He was 18 years, and I  
24 think he had completed almost 15 of those 18 on rescue.  
25 He was just transferring, you know, his career from

1       being a rescue --

2               MR. McHUGH: I'm going to object at this point,  
3       your Honor. This is becoming a free-flowing narrative  
4       instead of answering questions.

5               THE COURT: Why don't we let the witness finish  
6       this answer, but we have to be careful about ensuring  
7       that we have question and answer, back and forth,  
8       Mr. Martin.

9       A. Firefighter Dicomitis was on rescue for a lot of  
10      years; and, in turn, when I was acting in charge in my  
11      first year and a half, I was basically told that he'll  
12      never take an order from me.

13              THE COURT: Mr. Martin, actually is this a good  
14      time? We're right at 4:30.

15              MR. MARTIN: Yes.

16              THE COURT: Great. Ladies and gentlemen, we're  
17      going to break for the day. I'm going to give you the  
18      usual admonitions. Please don't do any independent  
19      research about this case, please don't discuss this  
20      case amongst yourselves or with anyone else, please  
21      don't mention anything about your jury service on  
22      social media and please, please don't look at any news  
23      reports about this trial. If you see them, just turn  
24      away from them. And we'll see you back at 9:30.

25              (Adjourned.)

C E R T I F I C A T I O N

I, Karen M. Wischnowsky, RPR-RMR-CRR, do hereby certify that the foregoing pages are a true and accurate transcription of my stenographic notes in the above-entitled case.

\_\_\_\_February 1, 2017\_\_\_\_

Date

/s/ Karen M. Wischnowsky

Karen M. Wischnowsky, RPR-RMR-CRR  
Federal Official Court Reporter

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